



LIECHTENSTEIN-INSTITUT

Visit of the EFTA Surveillance Authority at the Liechtenstein Institute
21 April 2016

Liechtenstein and the EEA

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Structure

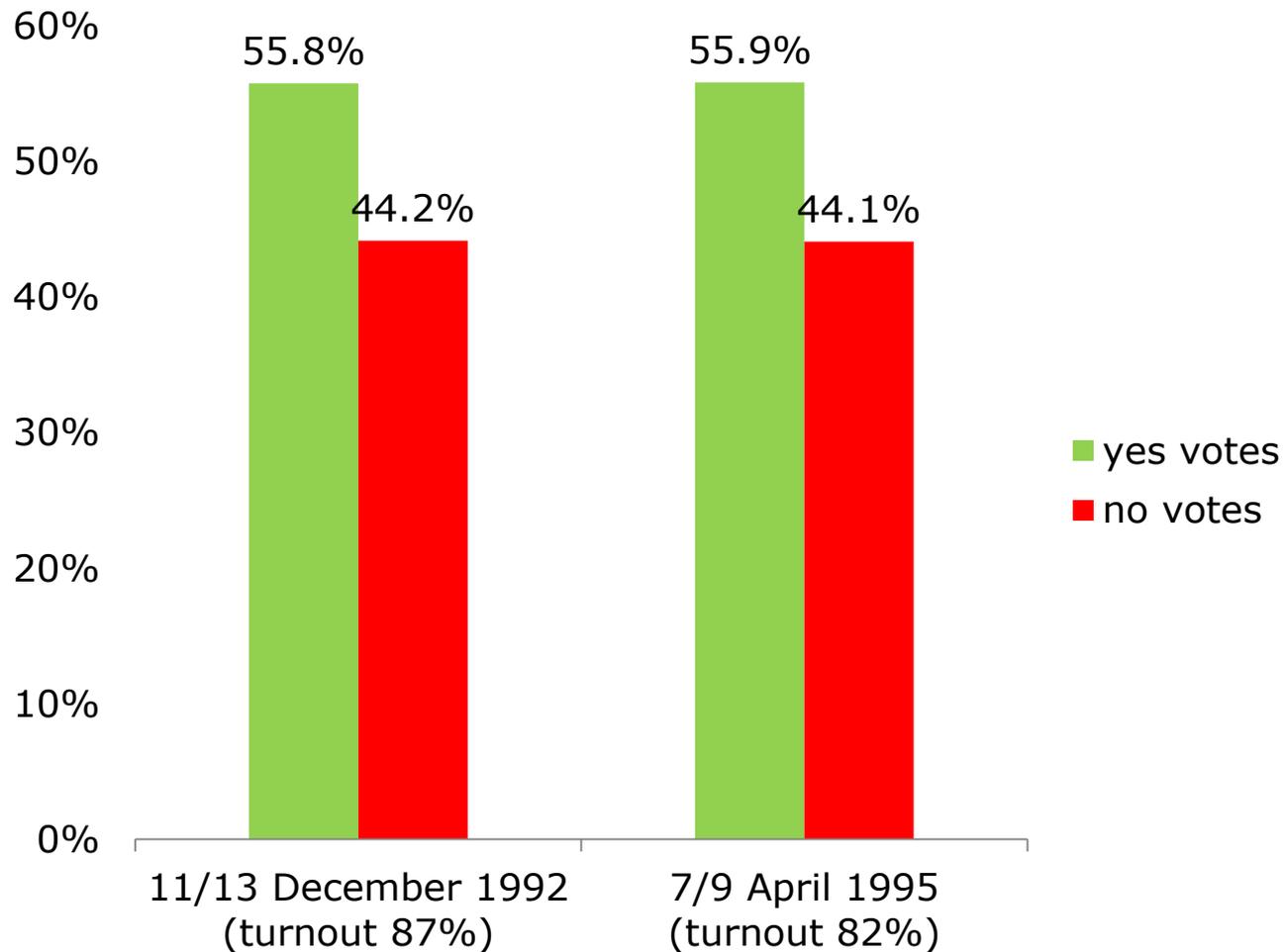
- Liechtenstein's way to the EEA
- Public attitude towards EEA membership
- Administration of the EEA
- Research about European integration



Liechtenstein's way to EEA membership



EEA referendums in 1992 and 1995



Arguments against EEA membership

- worsening of political and economic relations with Switzerland
- EEA membership not feasible – EEA ‘too big’ for Liechtenstein
- loss of competitiveness of Liechtenstein’s financial centre
- increase of traffic volume
- uncontrolled immigration and domination by foreign influences
- restrictions of domestic democracy (in particular direct democracy)
- high financial costs (continuously increasing)



Argument in favour of EEA membership

- gain of sovereignty (international recognition and access to policy making)
- precondition of stable relations with the EU and its member states
- gain of competitiveness due to better access to the Internal Market
- increase in knowledge and cultural exchange due to participation in EU programmes on education and research



Key figures on the public opinion towards European integration



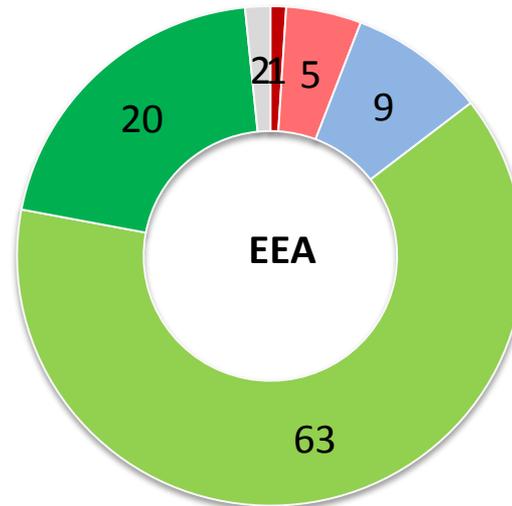
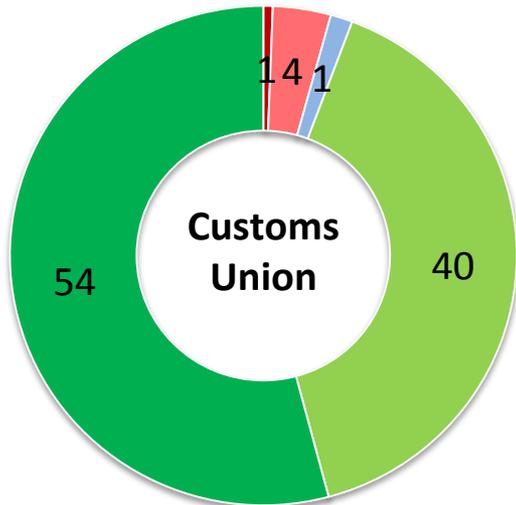
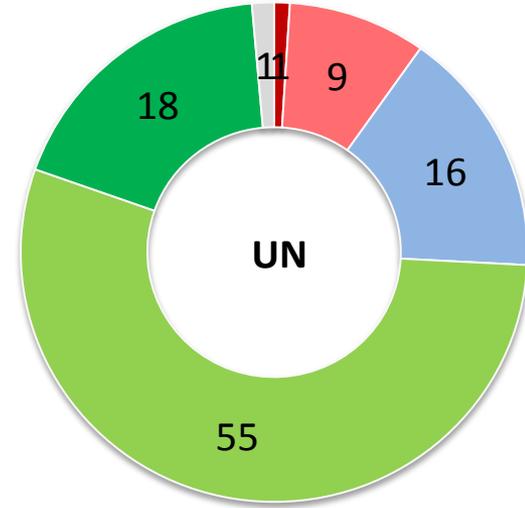
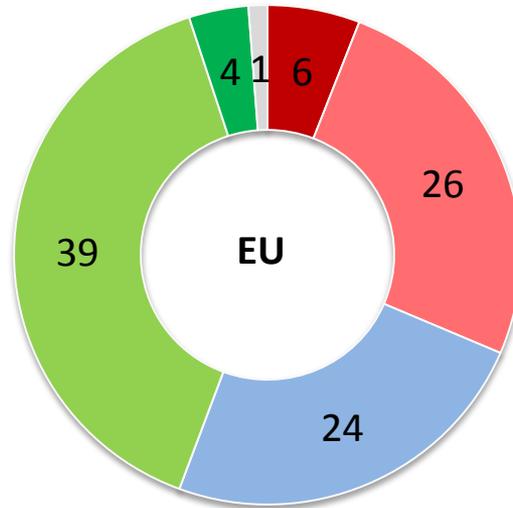
Background: 20 years of EEA membership of Liechtenstein

- Three different surveys: people (CATI), companies (online survey) and public administration (online survey)
- Time period: November 2014 until January 2015
- Questionnaires: Liechtenstein Institute in cooperation with the EEA Coordination Unit
- Analyses: Liechtenstein Institute
- Publications: “Bericht und Antrag 20 Jahre EWR-Mitgliedschaft”; LI-Aktuells (www.liechtenstein-institut.li); publications in English “under preparation”

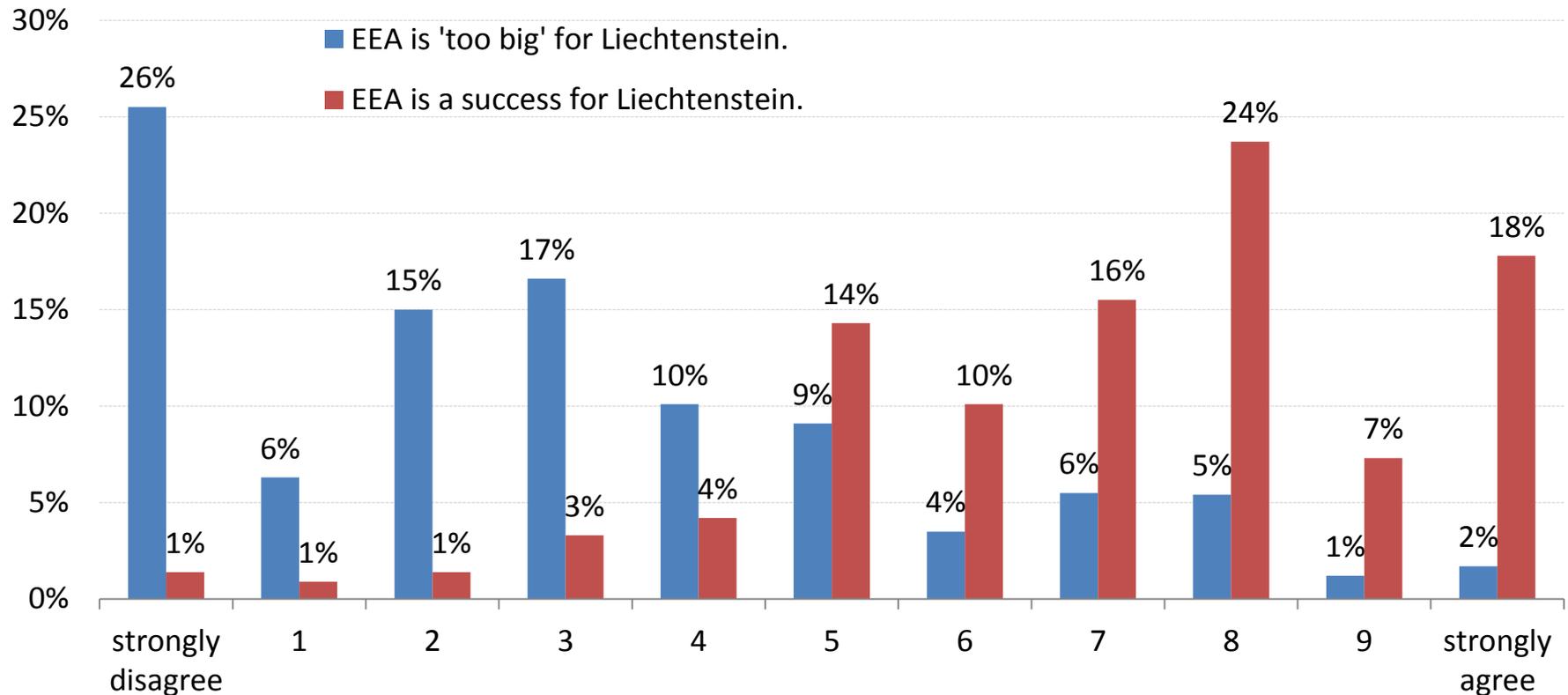


Image of selected international organisations and agreements

- very negative
- fairly negative
- neutral
- fairly positive
- very positive
- don't know

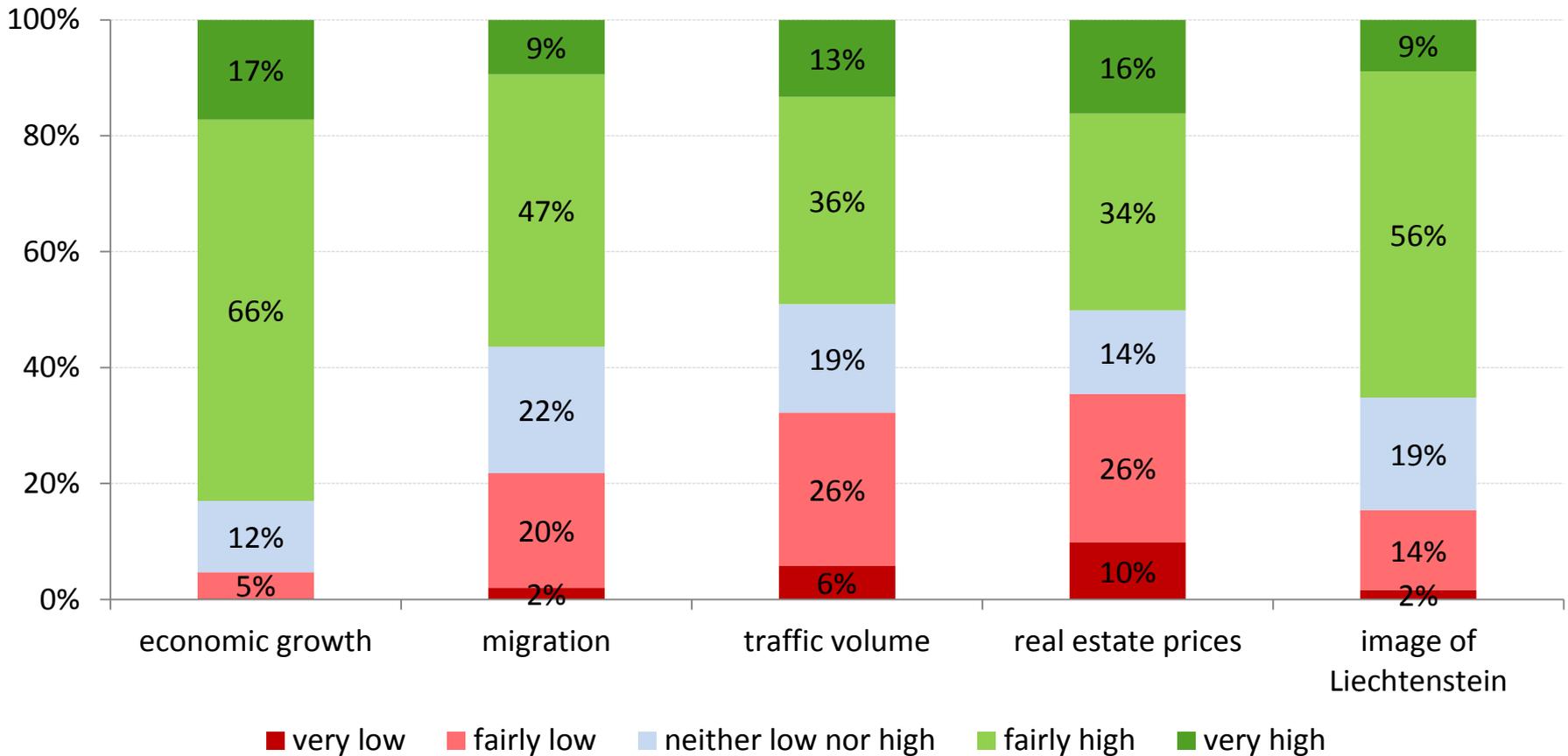


EEA membership is widely seen as a success.



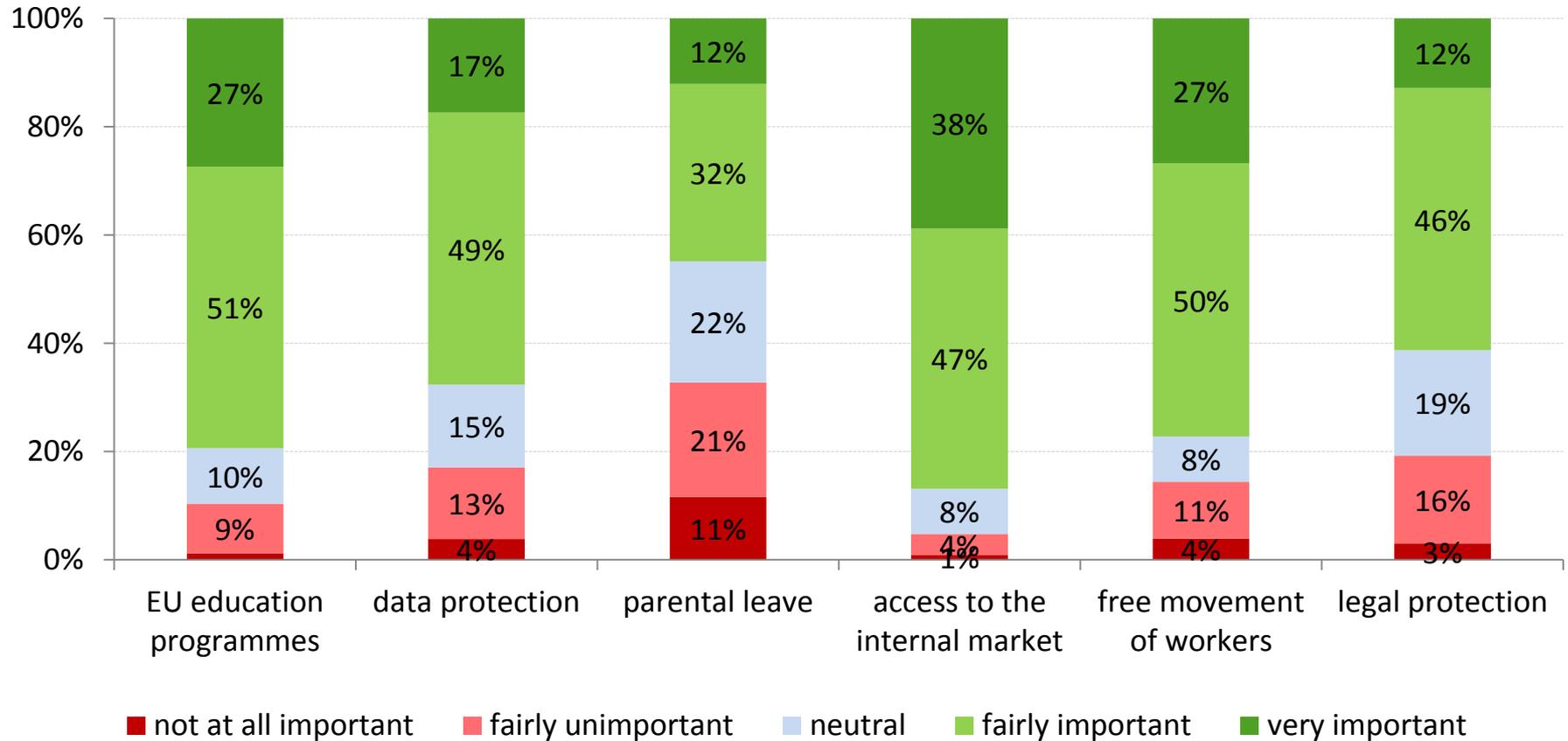
Impact of the EEA on the economic growth is assumed to be particularly high.

How high do you estimate the impact of the EEA membership?



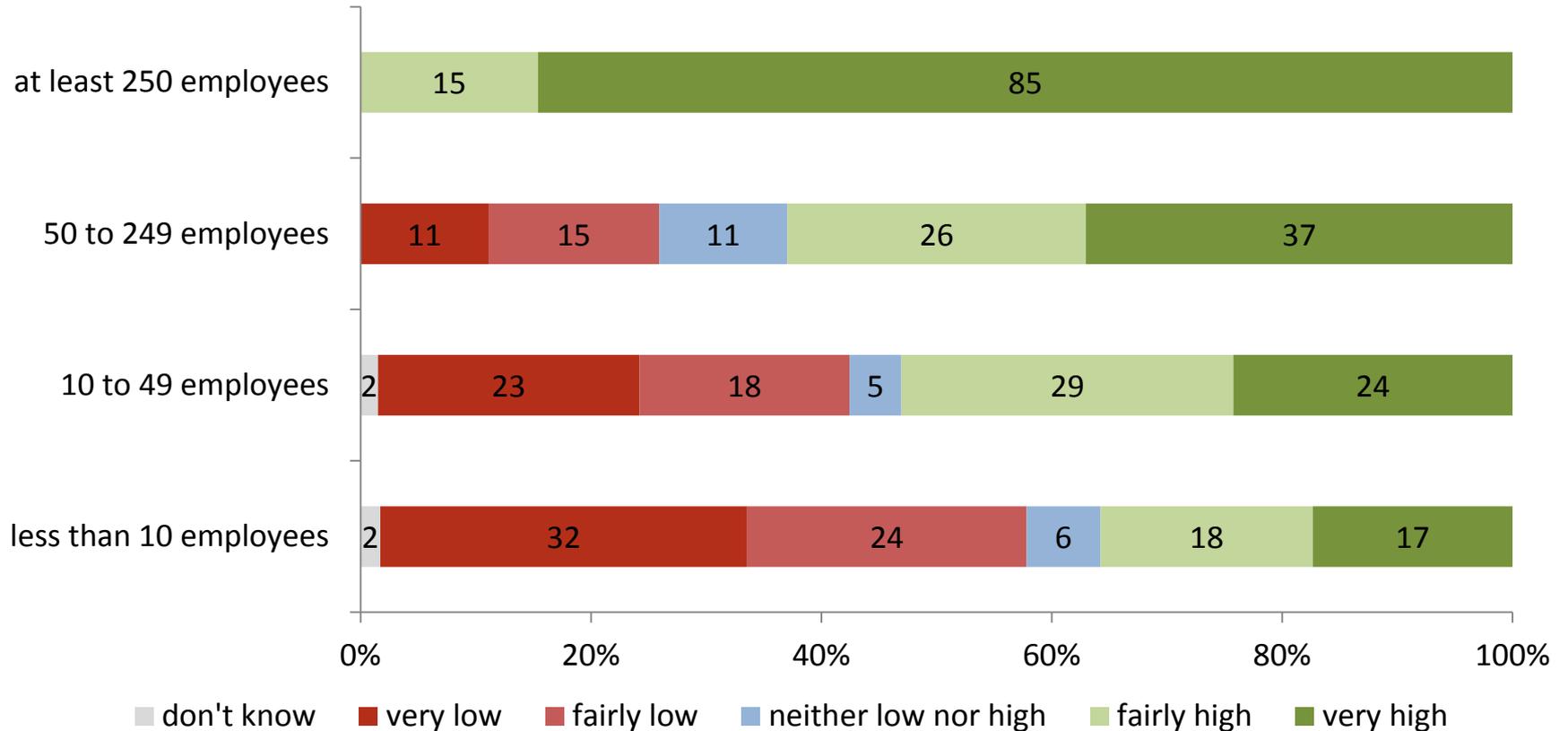
Market access is suggested to be the biggest achievement.

How important are the following changes for you?



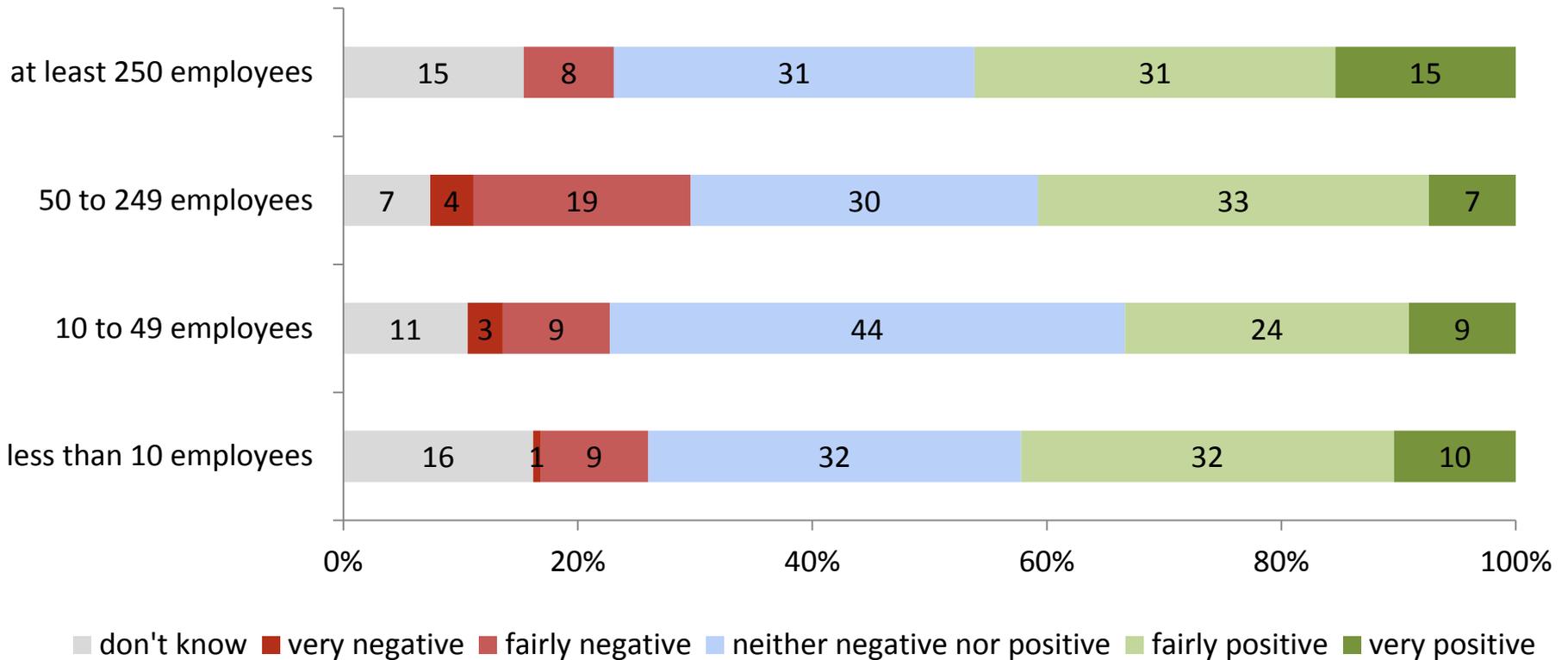
Relevance of Internal Market increases with the size of the company.

relevance of EU und EEA EFTA market (excluding Liechtenstein)



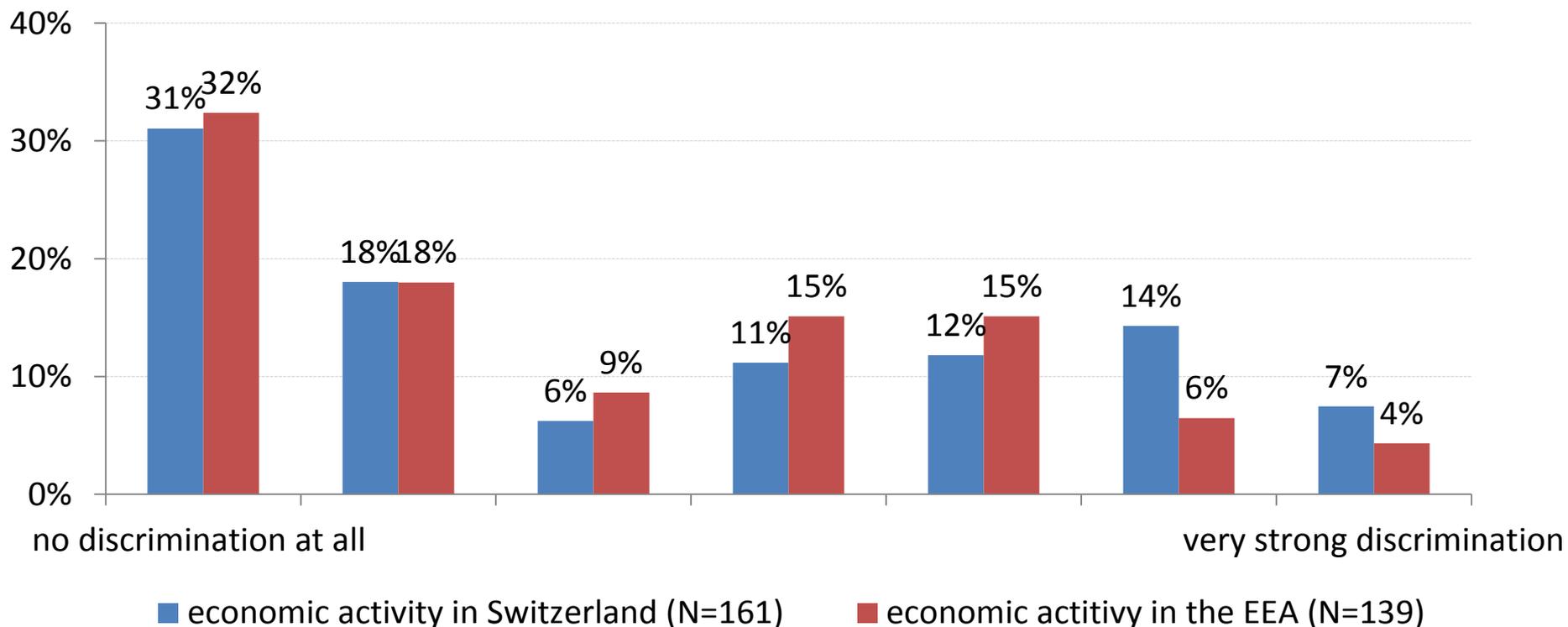
Mostly no negative consequences of the EEA membership on economic activities in Switzerland

impact of the EEA on the economic activities of Liechtenstein companies in Switzerland



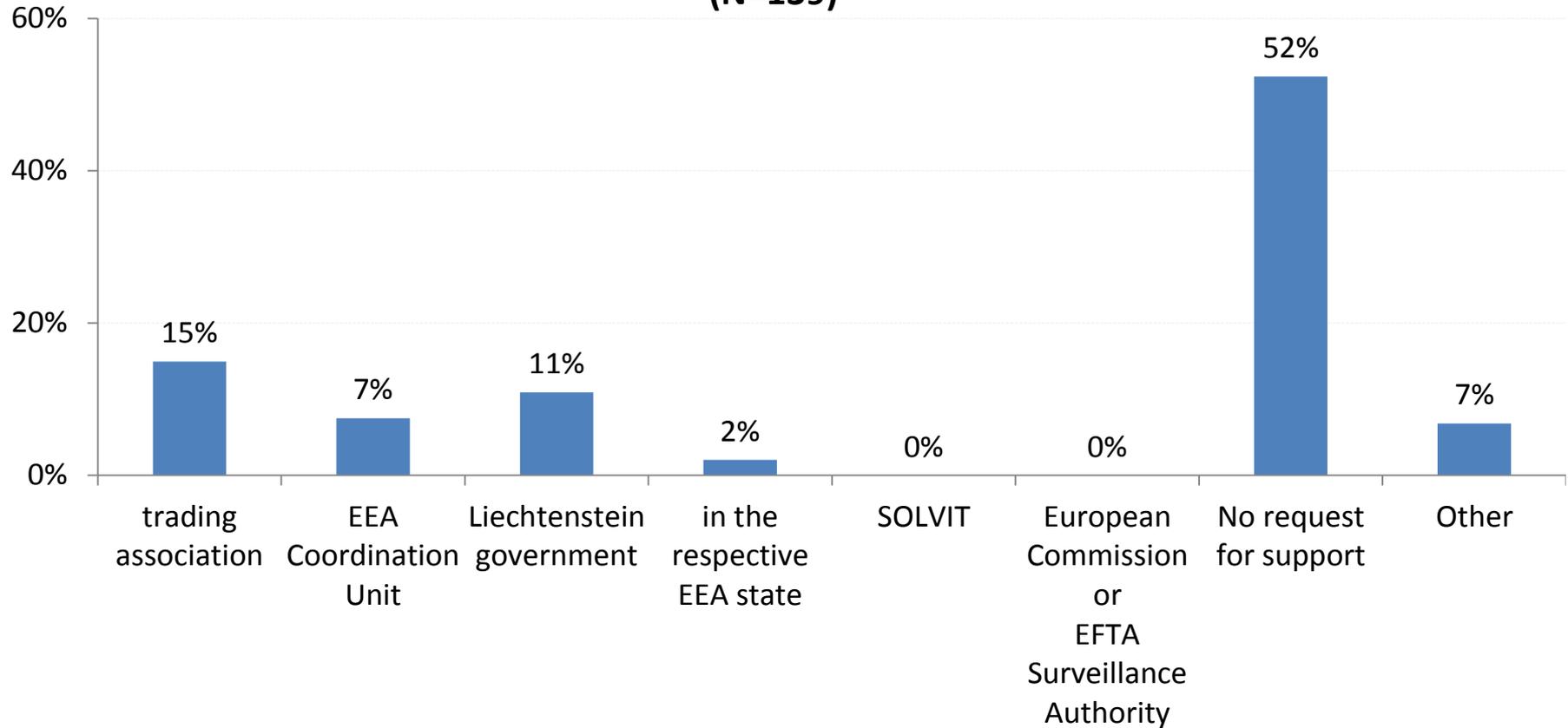
Slightly less discrimination in the EEA than in Switzerland

Do you feel discriminated against Swiss or EEA located companies when operating in the respective economic area?



In case of a discrimination most companies do not request any official support.

Of whom do you request support if you feel discriminated in the EEA?
(N=139)



Causes of discrimination in case of economic activities in the EEA

Zollwesen
Marktzugang **ungleiche Kontrollen**
Preisniveau **Mehrwertsteuer**
Bekanntheit-EWR Wettbewerbsbedingungen CH-Stempelsteuer
Bürokratie Umsatzsteuer Reziprozität-Steuerfragen
Reputation **Finanzplatz**
Li-Zuwanderungspolitik
Anerkennung Rechtsformen

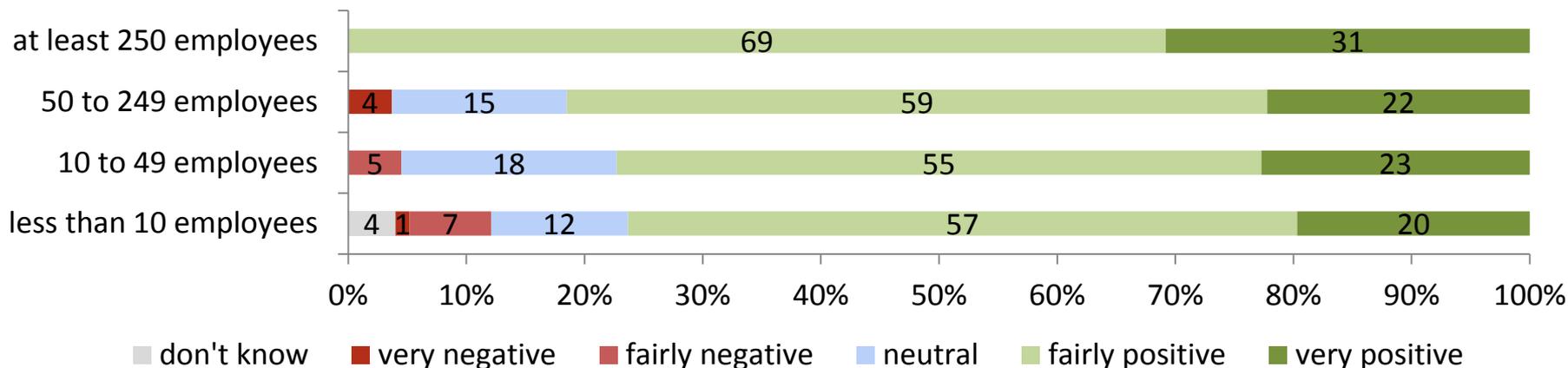


Causes of discrimination in case of economic activities in Switzerland

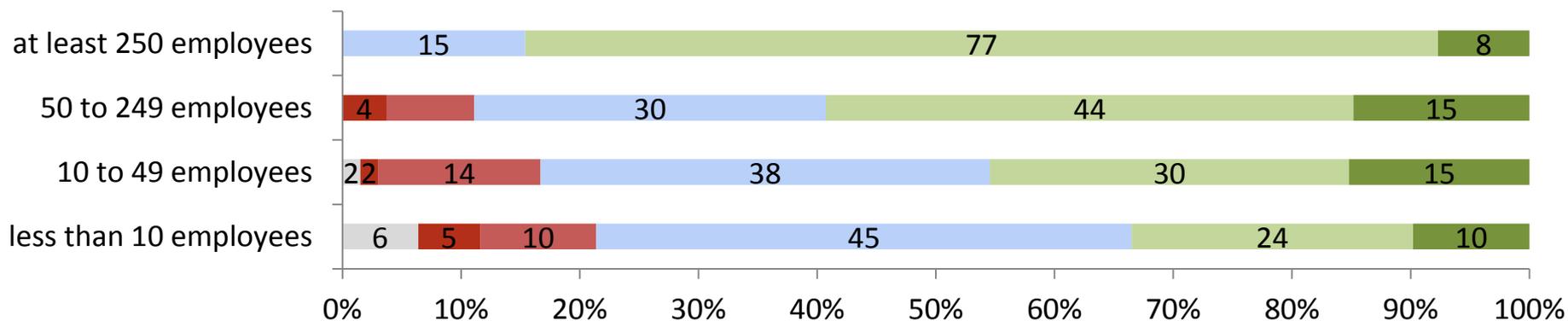


Different evaluation of the EEA's impact on Liechtenstein's *economy in general* and *own company*

impact of the EEA on Liechtenstein's economy in general



impact of the EEA on the own company

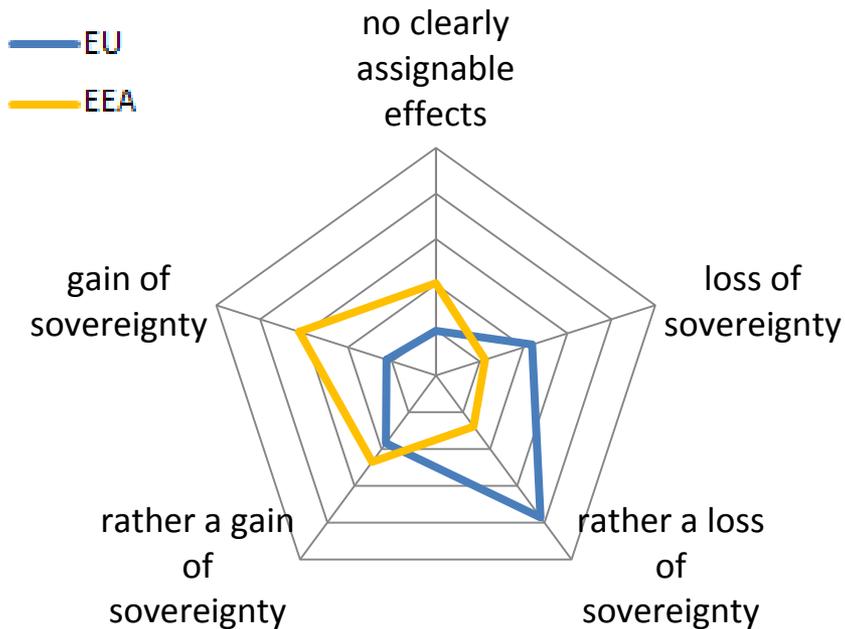


Other models of integration

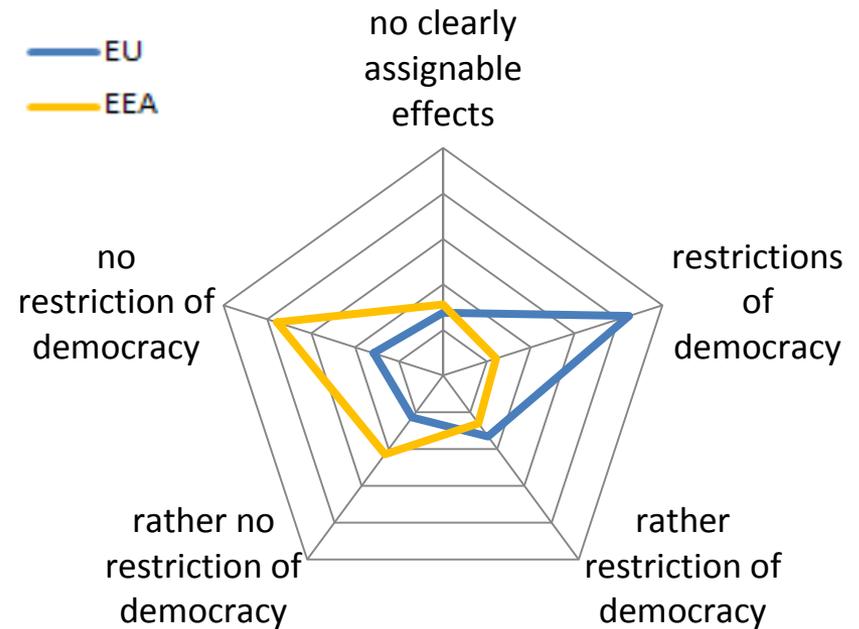


Different perception of EU and EEA

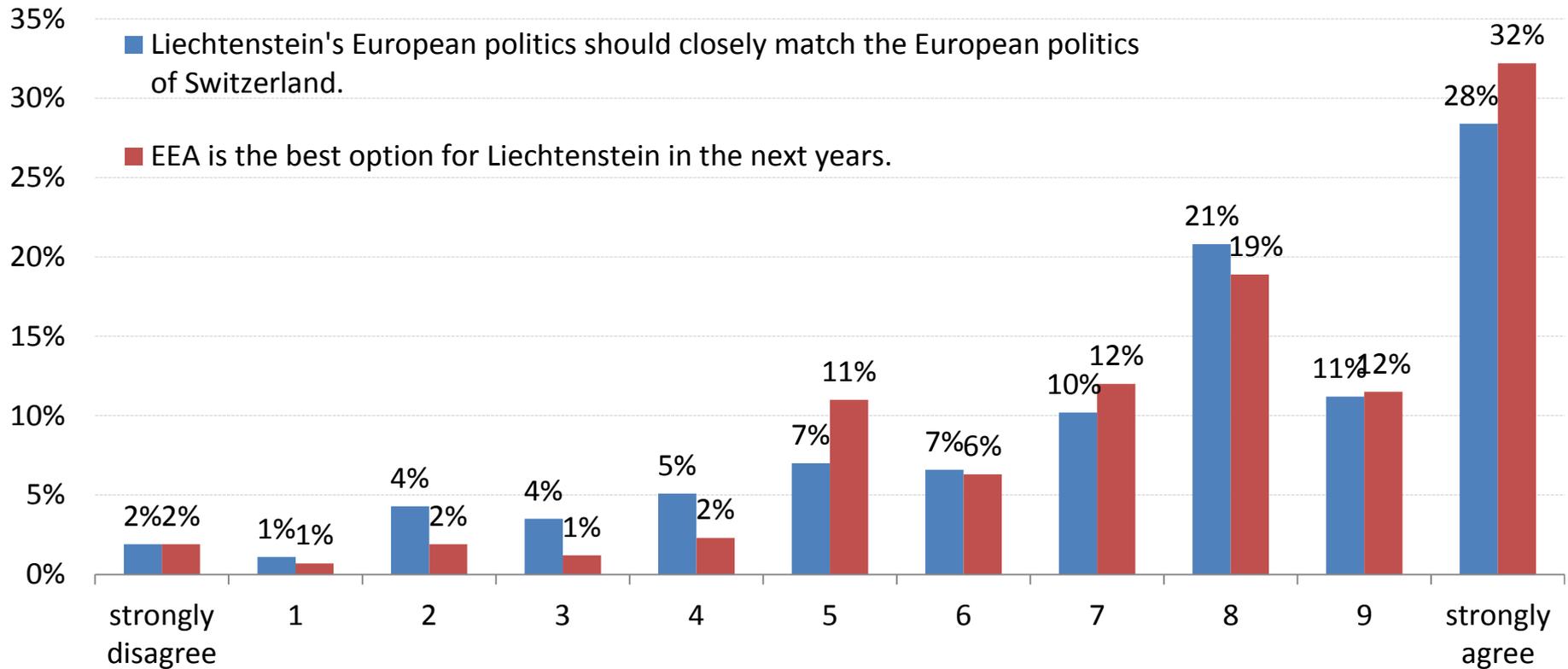
Effects of EU (prediction) and EEA (conclusion) on **sovereignty** of Liechtenstein



Effects of EU (prediction) and EEA (conclusion) on **domestic democracy** of Liechtenstein

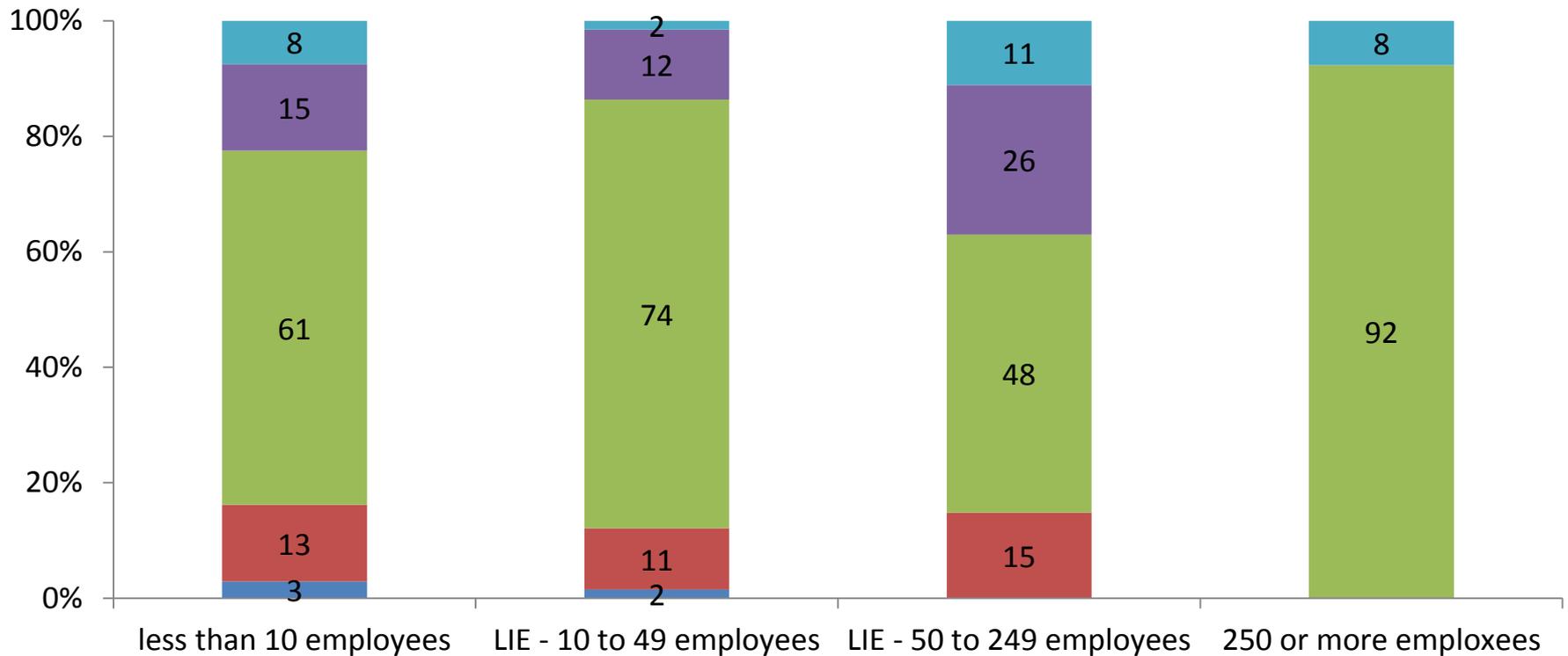


Future European politics of Liechtenstein: people



Future European politics of Liechtenstein: companies

future European politics of Liechtenstein: preferences of the companies by size



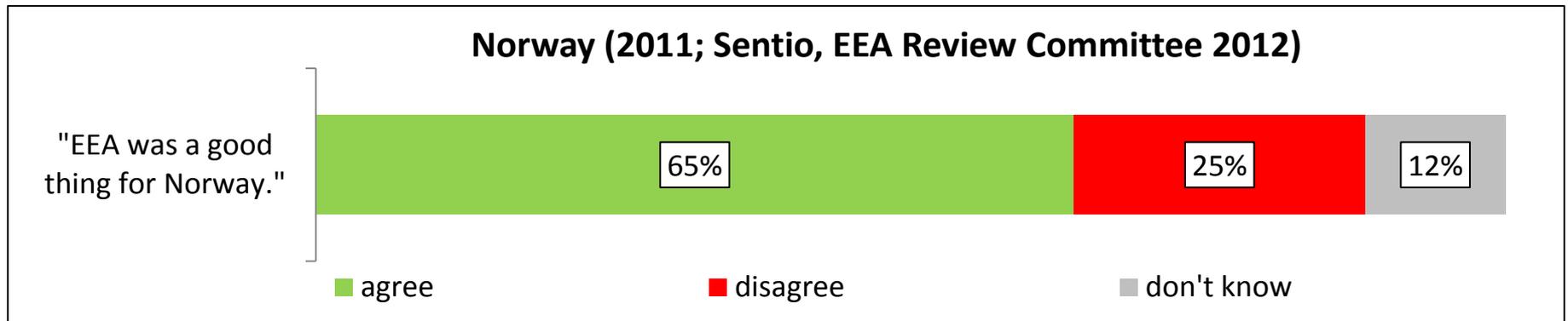
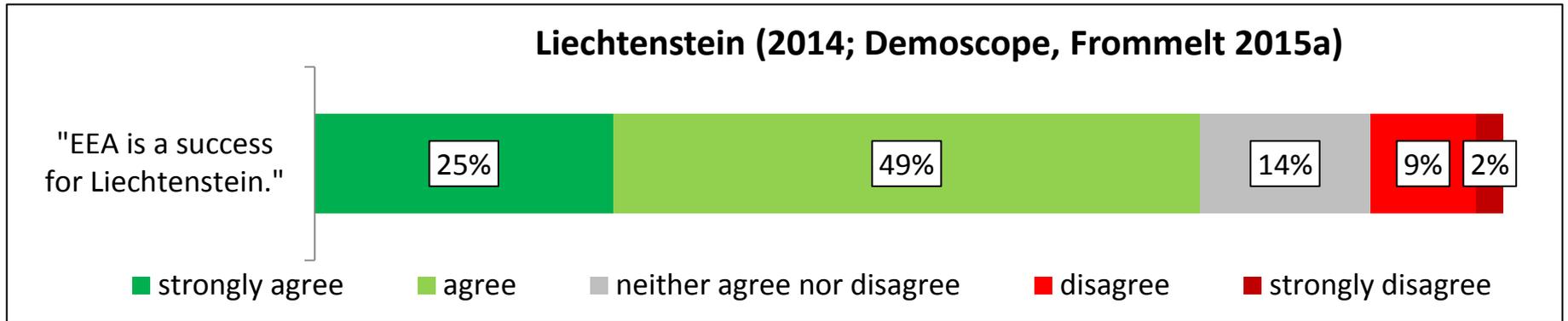
- exit from EEA/ free trade with EU
- continuation of current European politics
- EU membership

- exit from EEA/partnership with Switzerland
- EEA 2.0

Comparison with other EEA EFTA states



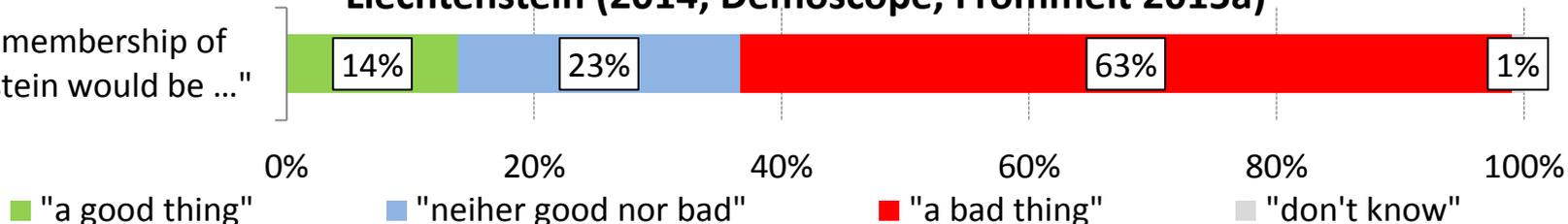
Taking stock after 20 years of EEA membership in Norway and Liechtenstein



Public attitude towards EU membership in the EEA EFTA states

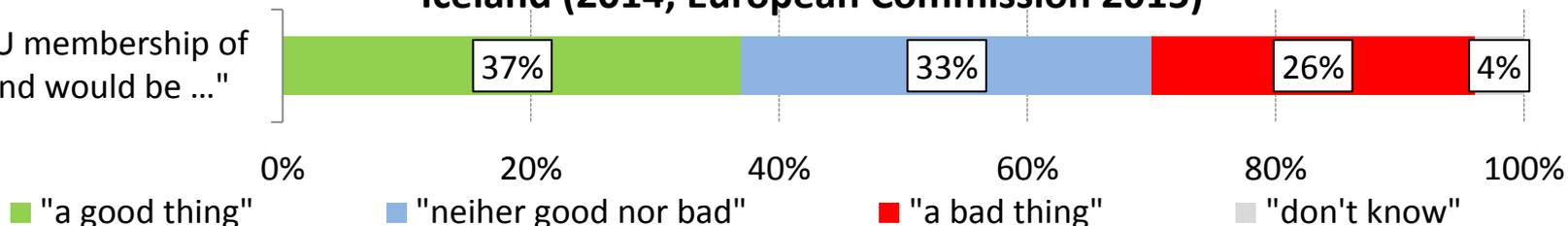
Liechtenstein (2014; Demoscope, Frommelt 2015a)

"An EU membership of Liechtenstein would be ..."



Iceland (2014; European Commission 2015)

"An EU membership of Iceland would be ..."



Norway (2014; Sentio, Klassenkampen.no 2016)

"How would you vote when asked on an EU membership..."

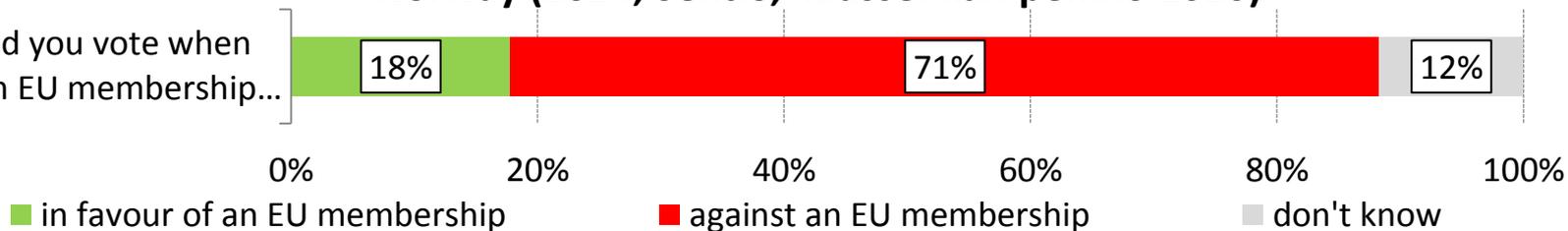
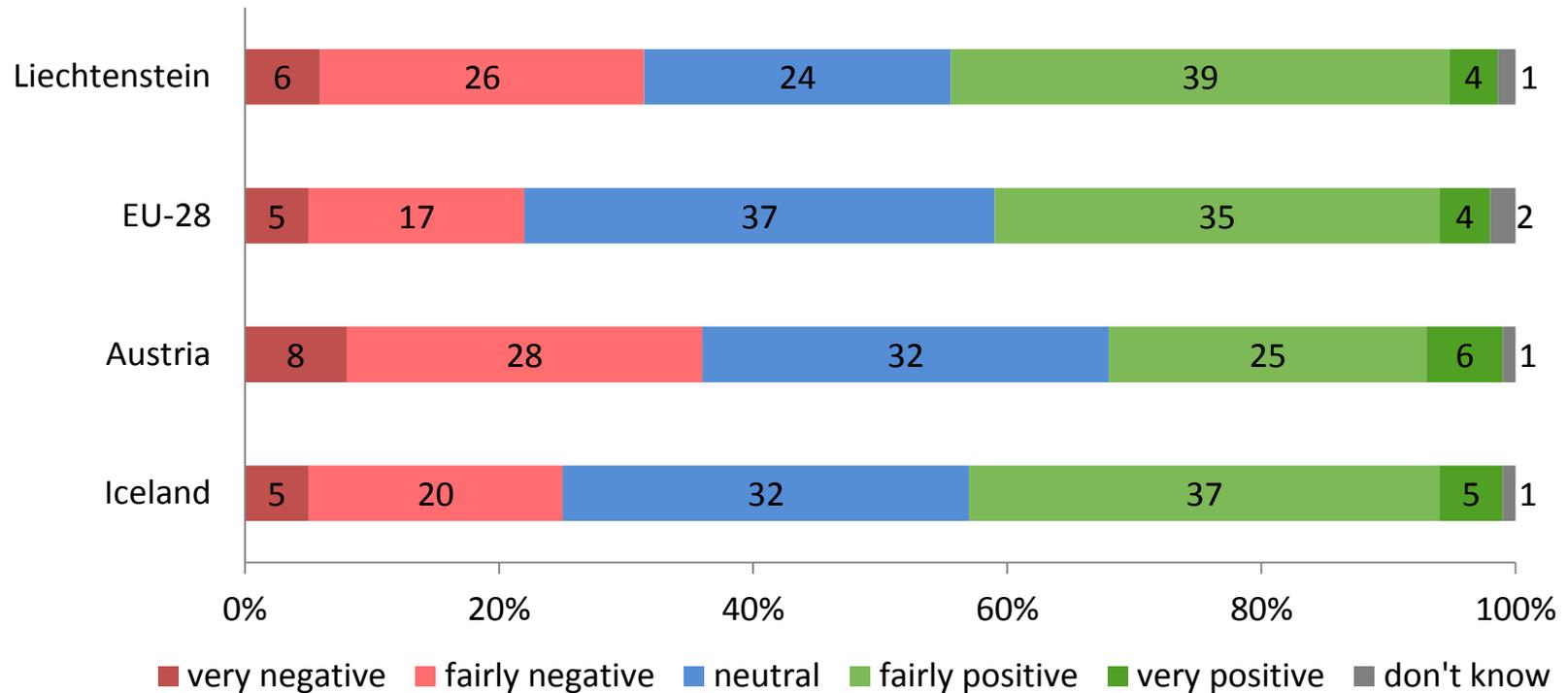


Image of the EU in Liechtenstein not worse than in Austria or Iceland



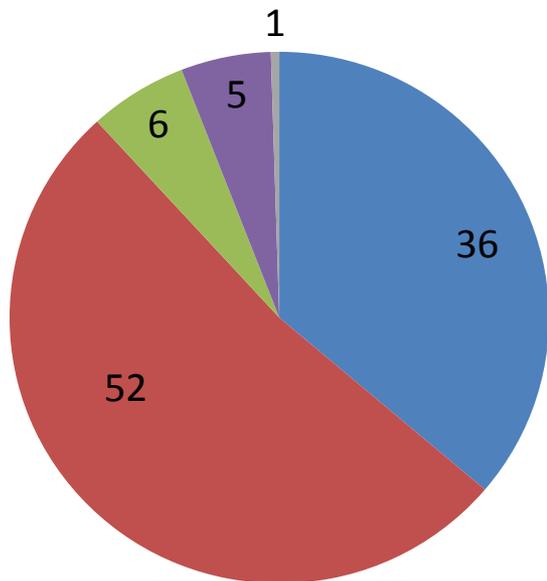
Source EU-28, IC, AT: QA9, Eurobarometer 82, autumn 2014

Similar concepts of identity in Liechtenstein and EU-28

Concept of identity: Do you see yourself as ...?

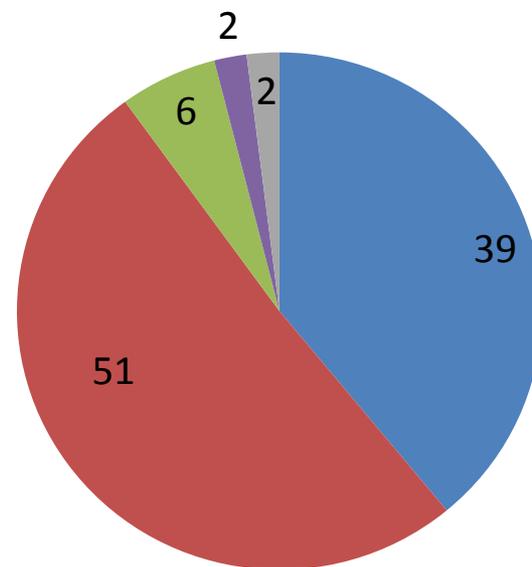
Liechtenstein people [%]

- ... Liechtenstein only
- ... Liechtenstein and European
- ... European and Liechtenstein
- ... European only
- None



people of the EU-28 [%]

- ... nationality only
- ... nationality and European
- ... European and nationality
- ... European only
- None



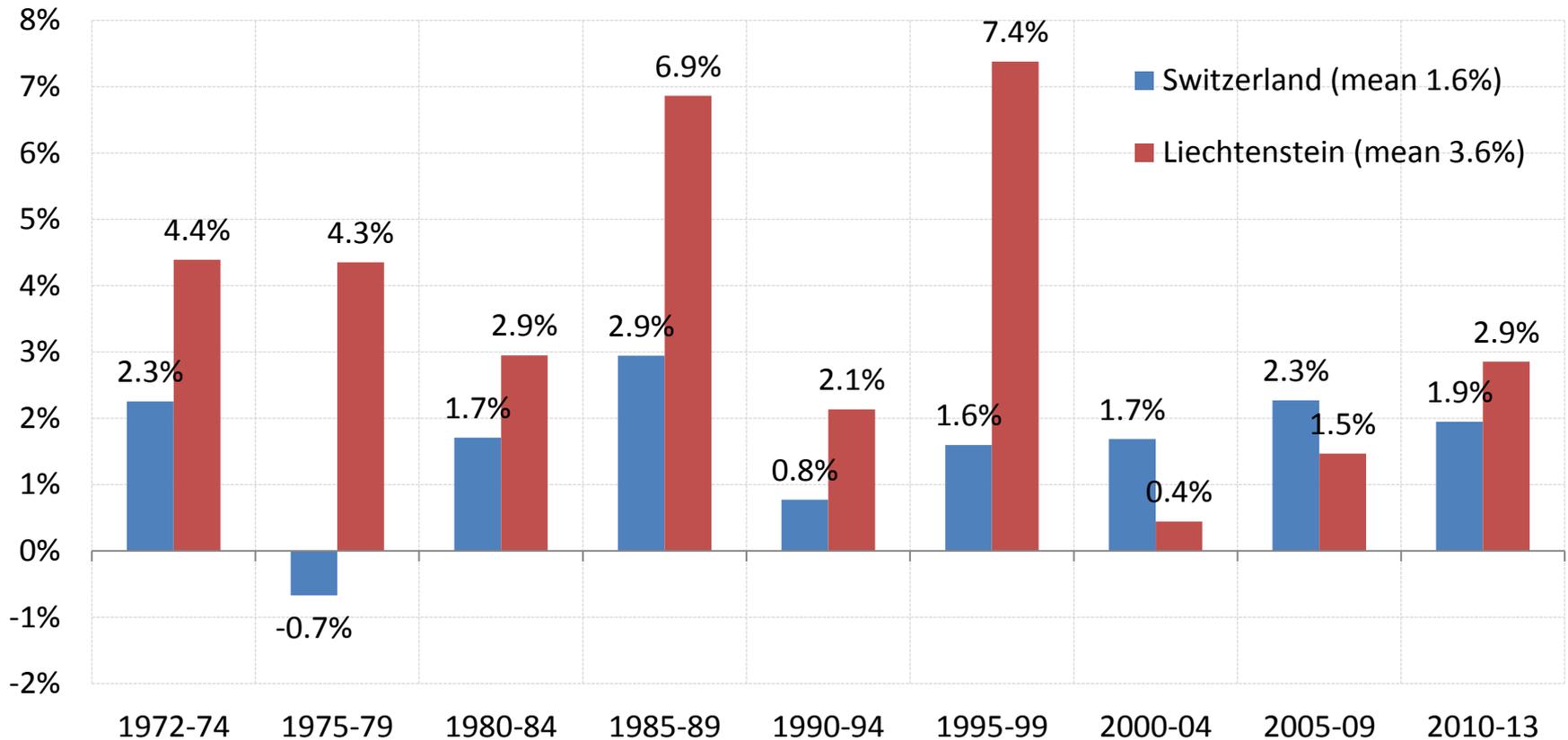
Quelle: QD3, Eurobarometer 82, Herbst 2014

Explanations of strong political support for EEA membership



Positive economic development after EEA accession

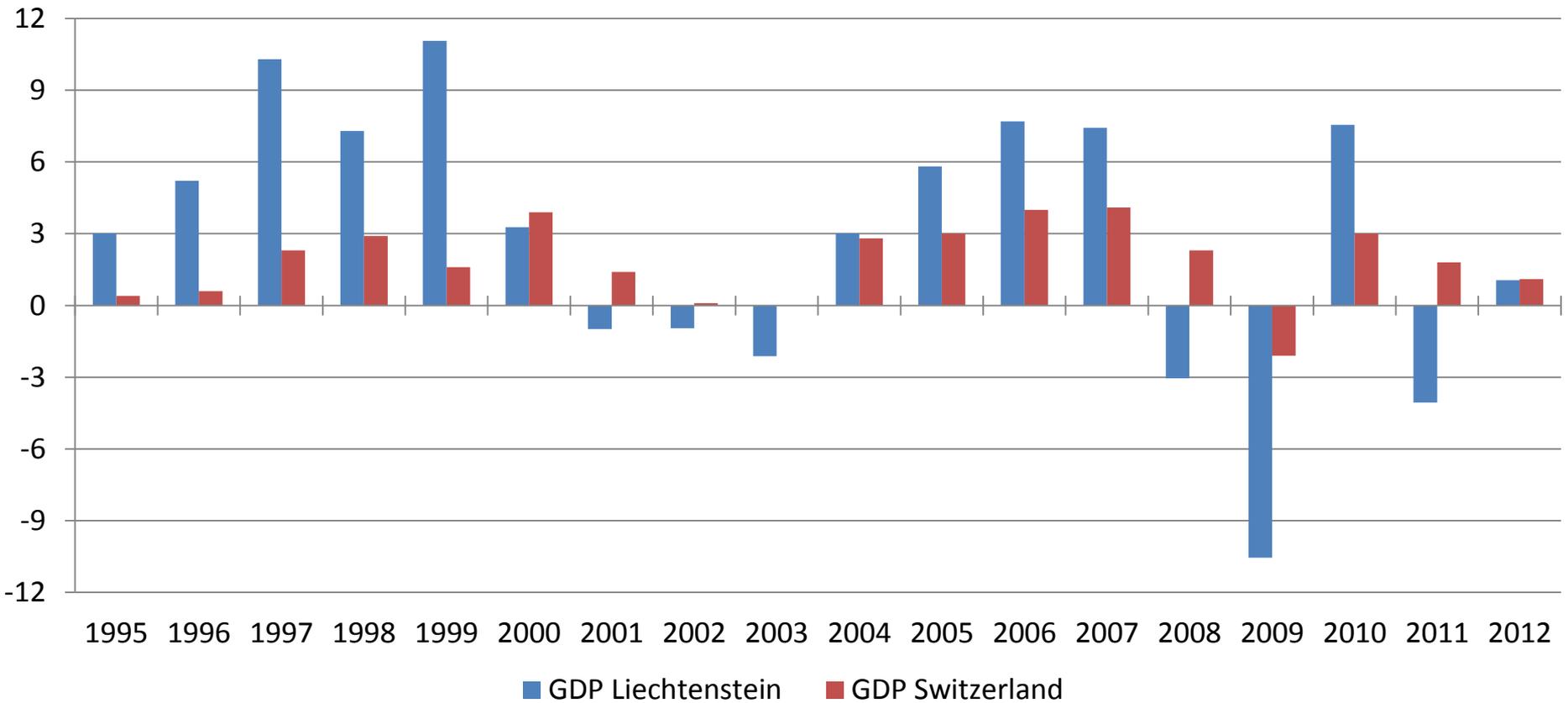
real GDP growth in Switzerland and Liechtenstein since 1972



Source: own compilation based on Brundhart 2015

But: GDP growth becomes more volatile.

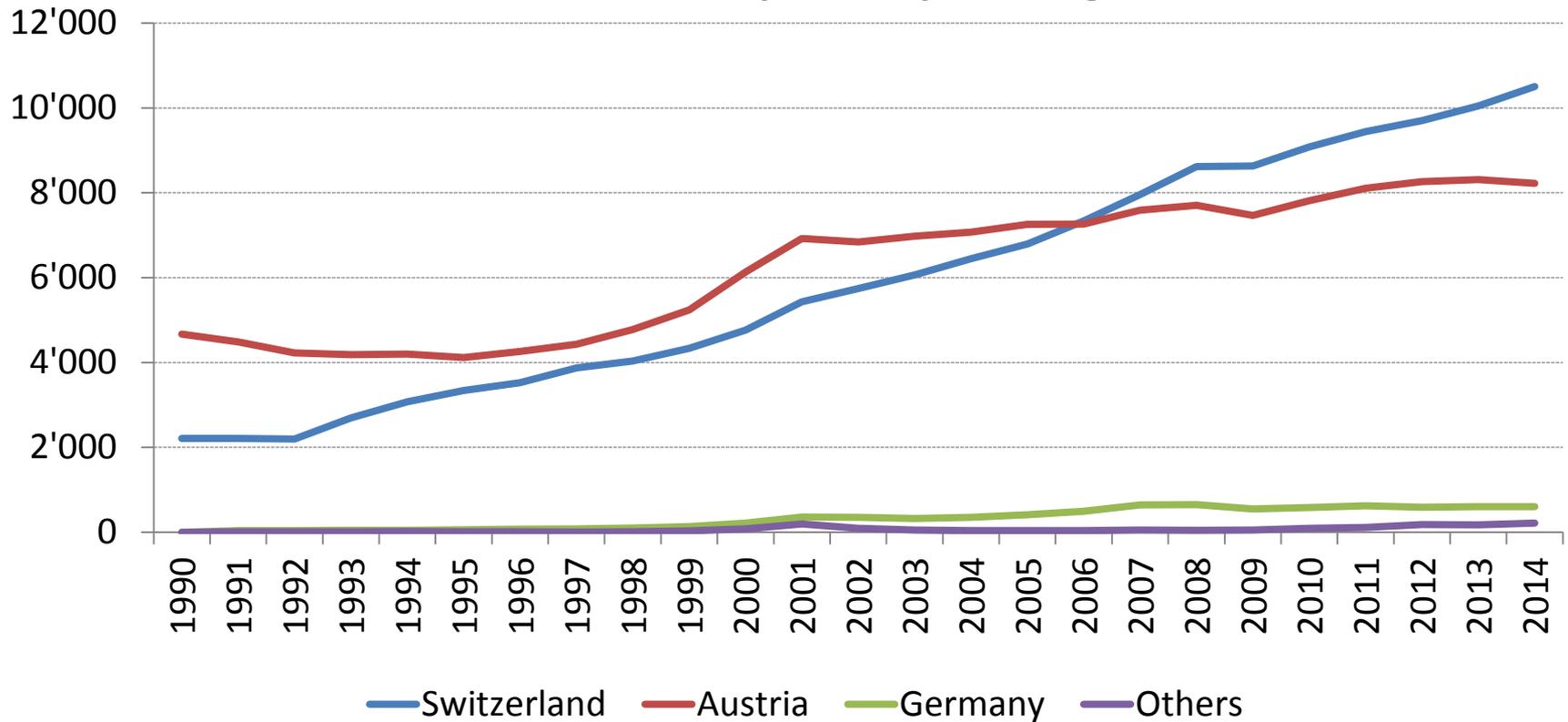
real GDP growth in Liechtenstein and Switzerland (1990 bis 2010)



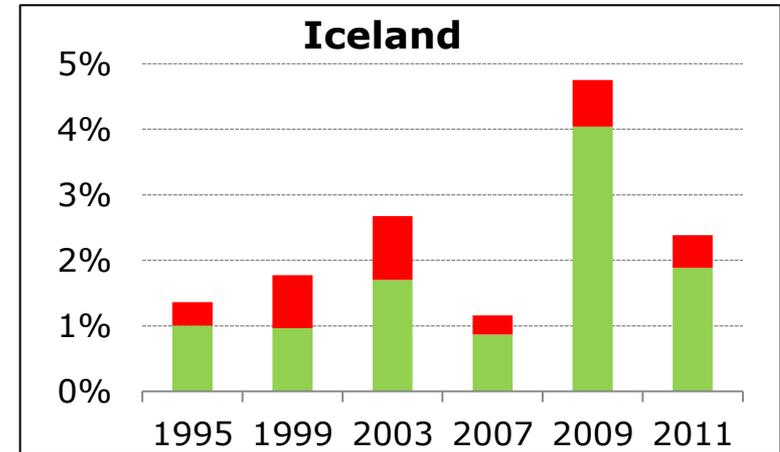
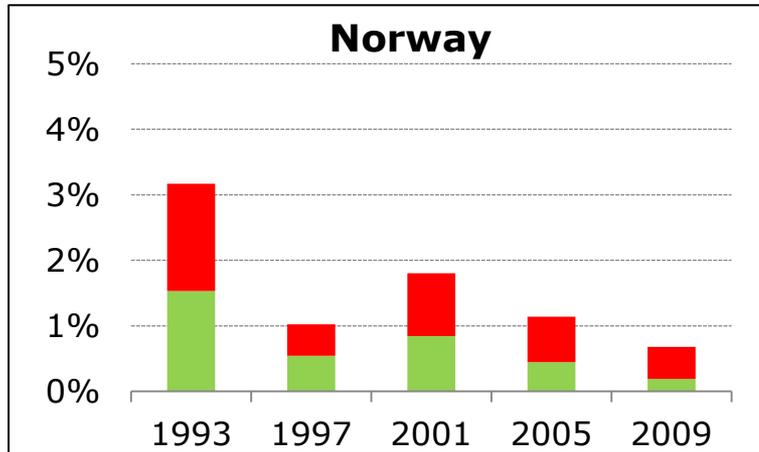
Source: own compilation based on Brundhart 2015

Increase of commuters

commuters by country of living

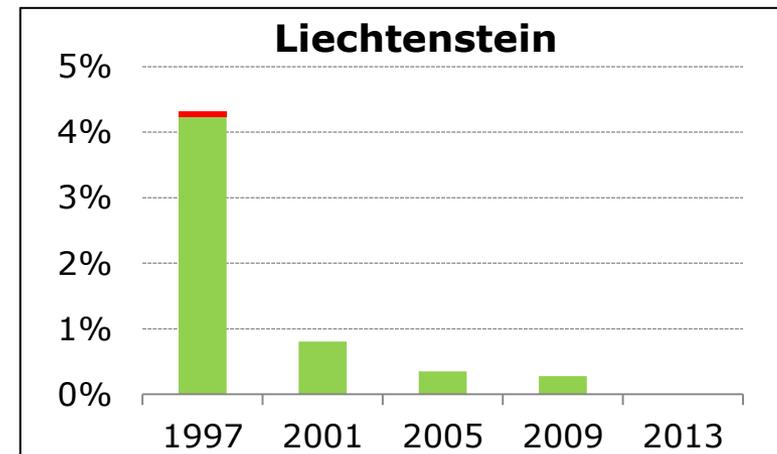
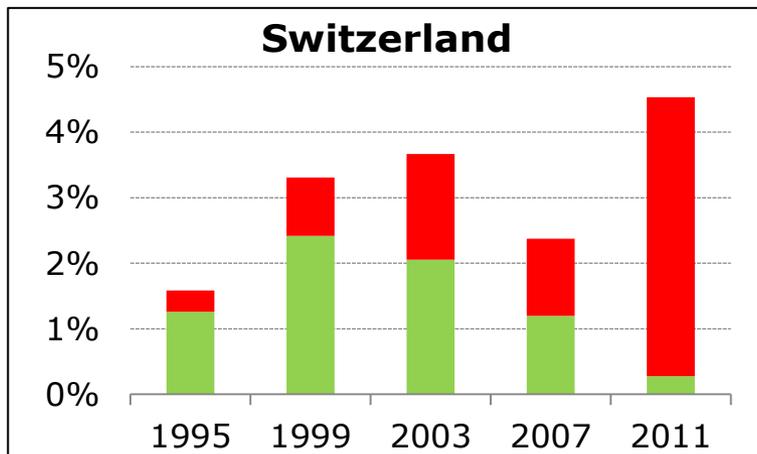


Low politicization of EEA membership by political parties (manifesto)



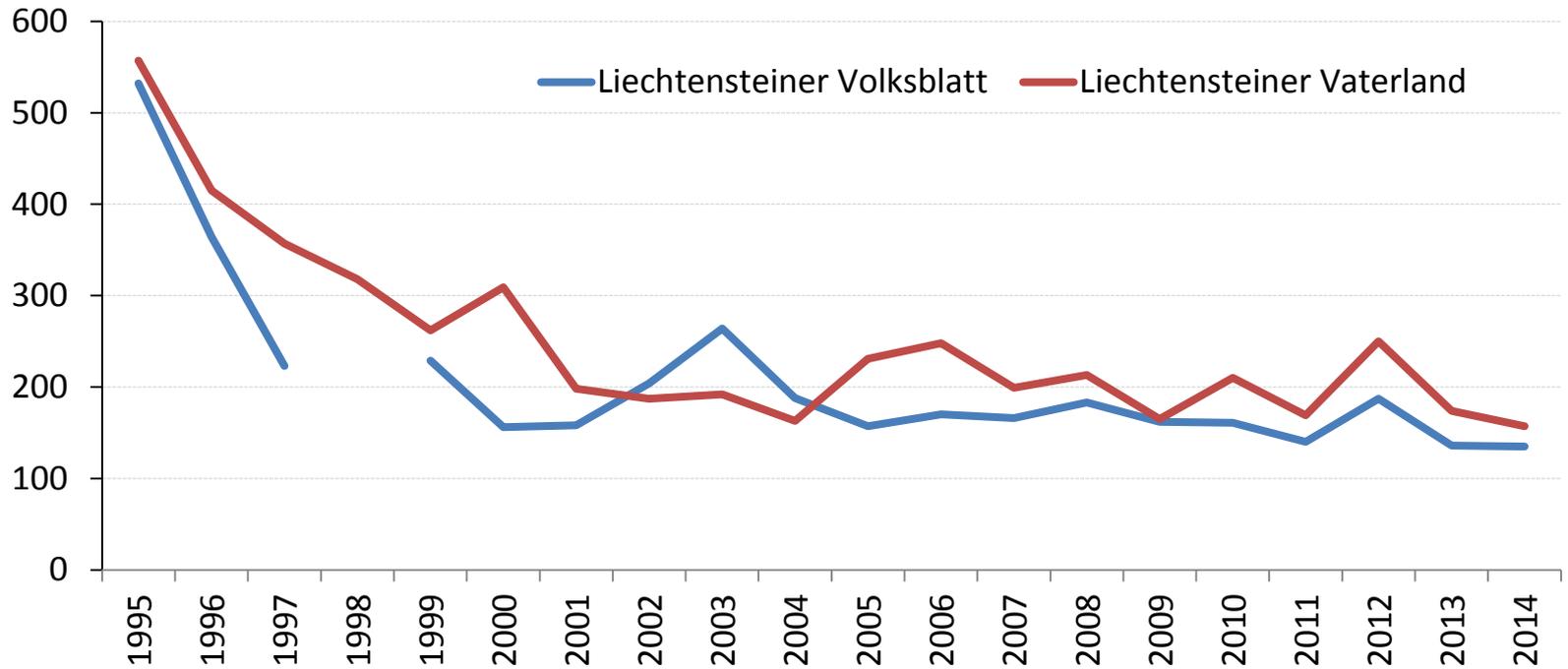
■ share of EU negative quasi-sentences

■ share of EU positive quasi-sentences



Low politicization of EEA matters in Liechtenstein media [1]

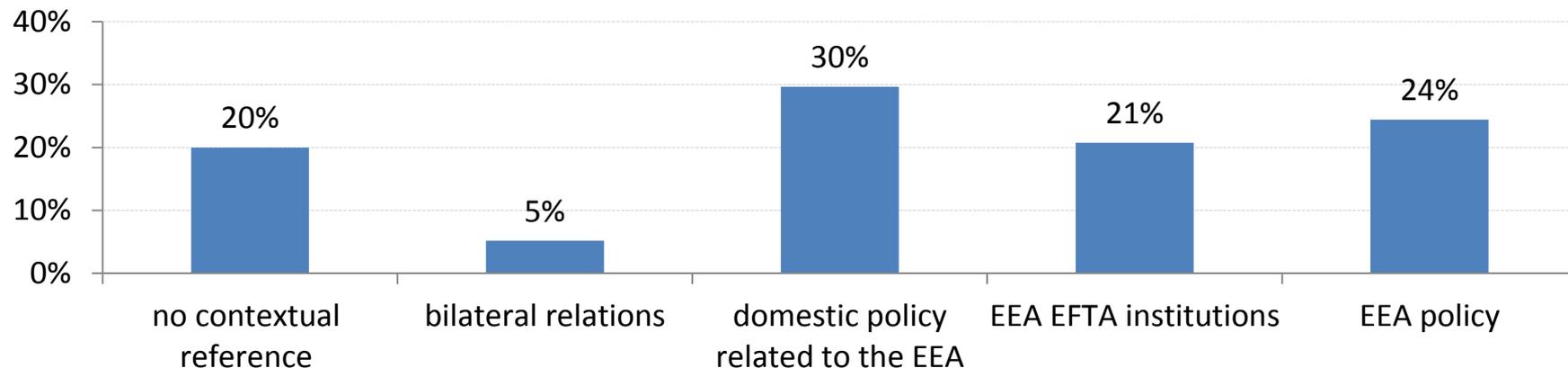
Number of references to the EEA in the Liechtenstein media



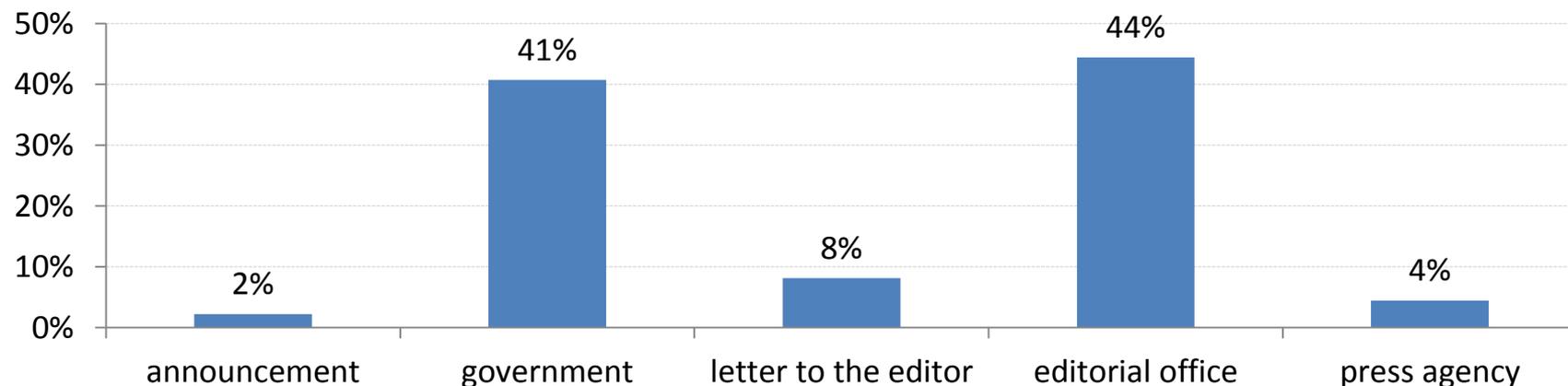
Source: own compilation based on vaterland.li and volkblatt.li

Low politicization of EEA matters in Liechtenstein media [2]

type of EEA reference (Volksblatt 2014, N=135)

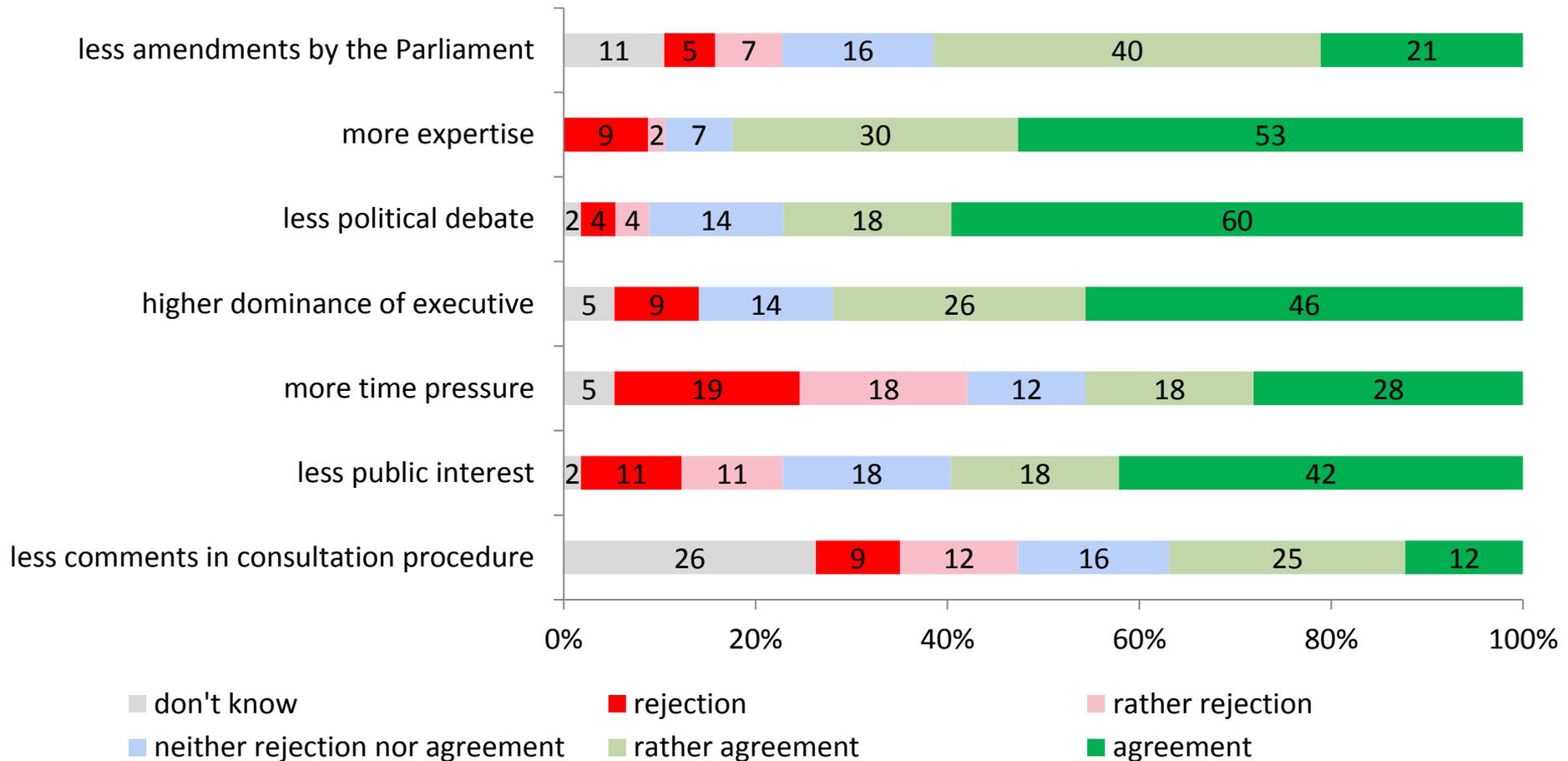


type of article including EEA reference (Volksblatt 2014, N=135)



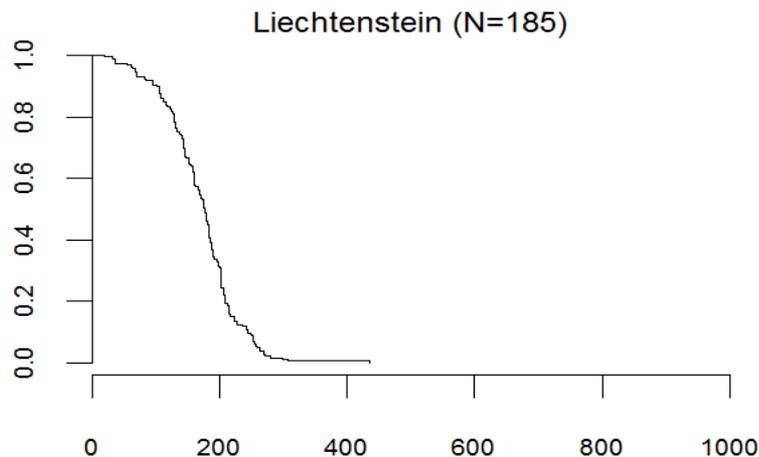
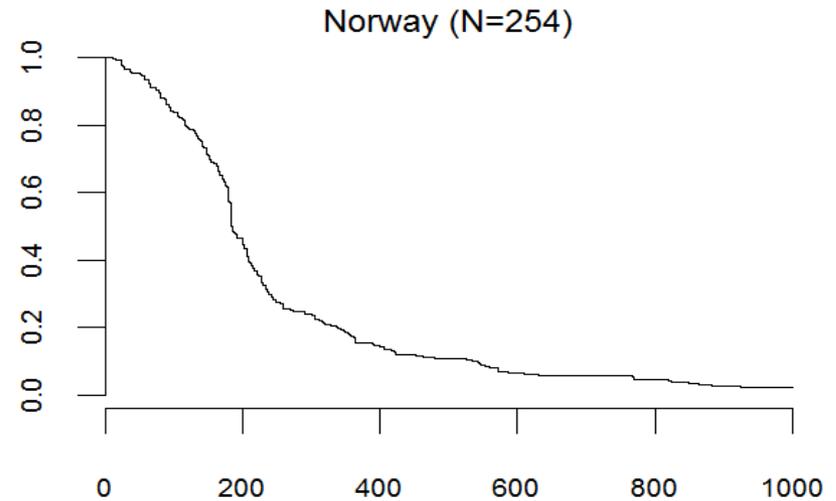
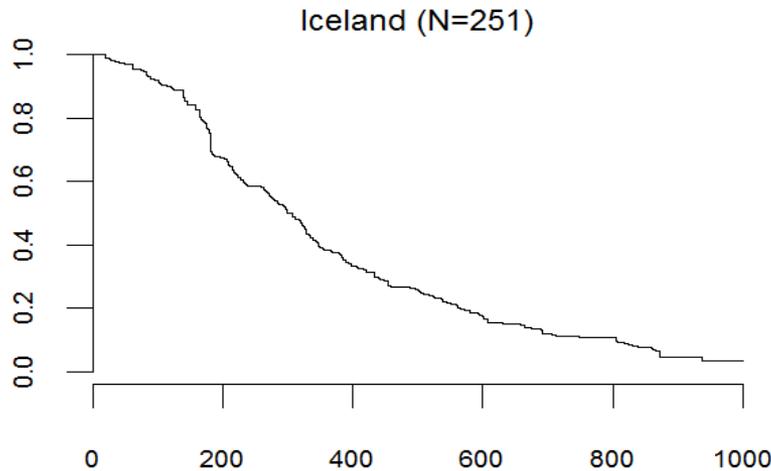
Less political debate about EEA law [heads of administrative units]

differences in the policy making of EEA law and domestic law



Fast ratification of JCD with constitutional requirements

Kaplan-Meier estimate for Decisions of the EEA Joint Committee (JCD) where constitutional requirements have been indicated, 1994-2014



Note: The survival function measures the time between the adoption of a JCD and its ratification by the Parliaments of the EEA EFTA states or – in the case of all EEA EFTA states – its entry into force in the EEA. The y-axis captures the probability of ratification of a JCD in percent. The x-axis measures the time to ratification in days.

Why does a majority see the EEA as a gain of sovereignty? [1]

- Gain of autonomy in the political relations with Switzerland
 - amendments of Customs Treaty (1991 and 1994) made independent membership in international organisations possible
 - access to the EU's Internal Market reduced dependence of Swiss market
 - increased independent legislative activity due to implementation of EEA law (and not just automatic adaptation to Swiss law)
 - increased legal security and transparency due to consolidation of legal relations with Switzerland



Why does a majority see the EEA as a gain of sovereignty? [2]

- international inclusion and recognition despite smallness
 - recognition of Liechtenstein as a sovereign partner with equal rights
 - increased political dialogue with EU and EU member states due to participation in EEA institutions
 - gain of information and political impact by access to the EU policy making (the so-called decision shaping)
 - improved communication of a diverse and more appropriate picture of Liechtenstein as a sovereign state, stable democracy as well as diversified economy
 - increased legal security



High permissive consensus among political elites

- no political opposition to EEA membership
 - EEA is not on the political and public agenda
 - lack of alternatives for EEA membership
- political culture shaped by
 - elements of a concordance system
 - conservatism and economic liberalism
- two narratives shape the political debate about Liechtenstein's membership in the EEA:
 - Despite its smallness Liechtenstein takes an active role in European integration.
 - EEA is the essence of European integration as it primarily focuses on economic matters.



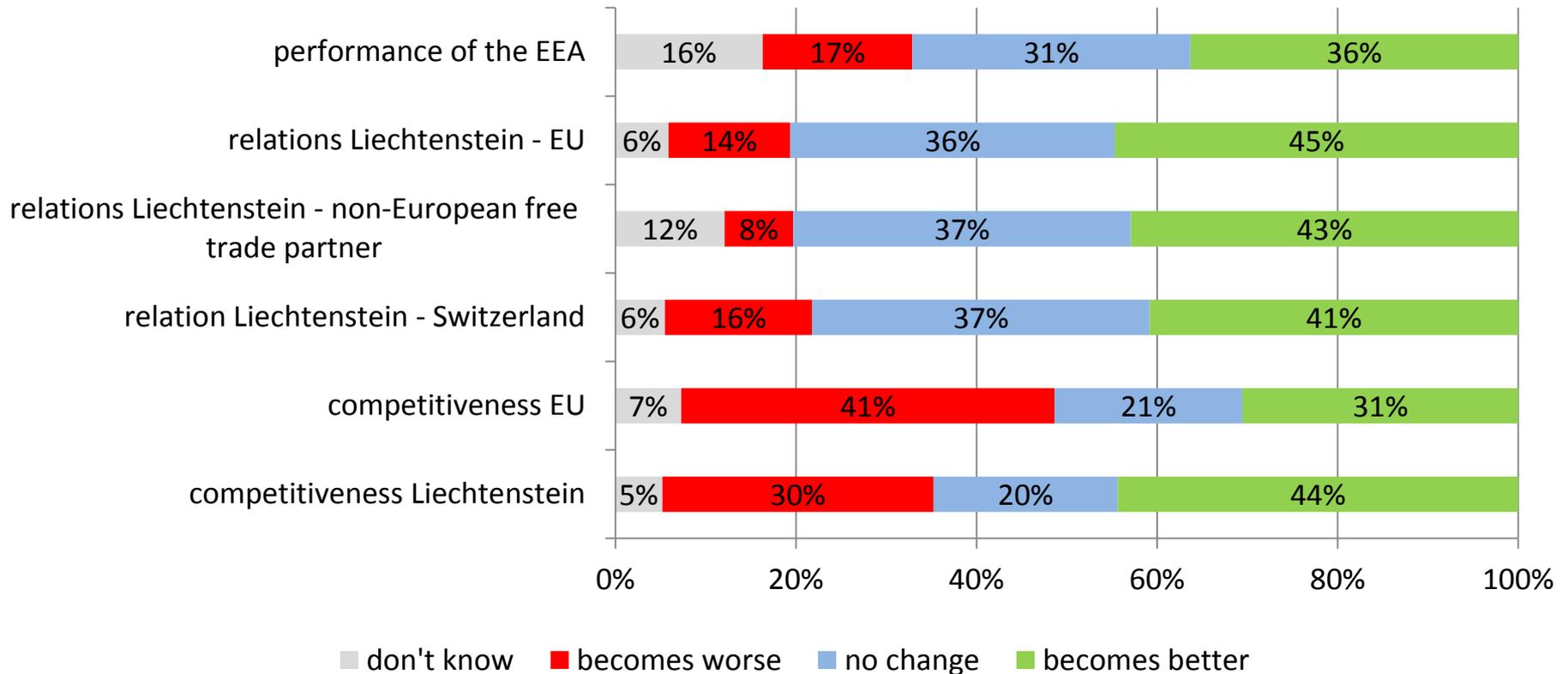
Summary of explanations

- favourable economic development after EEA accession
- high flexibility of the EU (derogations, adaptations etc.)
- no negative effects on Liechtenstein's relations with Switzerland
- little politicization – strong permissive consensus
- lack of alternative options
- low Euroscepticism (in the sense that the image of the EU is not worse than in other EEA states)



Outlook: majority of companies is rather optimistic

expected development over the next 10 years



Outlook: image of the EEA is expected to remain positive, but ... [1]

- uncertainty about the future development of ...
 - Liechtenstein's relations with Switzerland in general
 - implementation of initiative on mass immigration by Switzerland
 - Swiss relations with EU / future of the Swiss sectoral approach towards European integration (“bilateral way”)
- uncertainty about future development of GDP, competitiveness and public finances
 - cost-cutting measures have already produced opposition to the European integration (e. g. Horizon 2020)
 - economic development highly volatile – positive effects of market access have fizzled out

Outlook: image of the EEA is expected to remain positive, but ... [2]

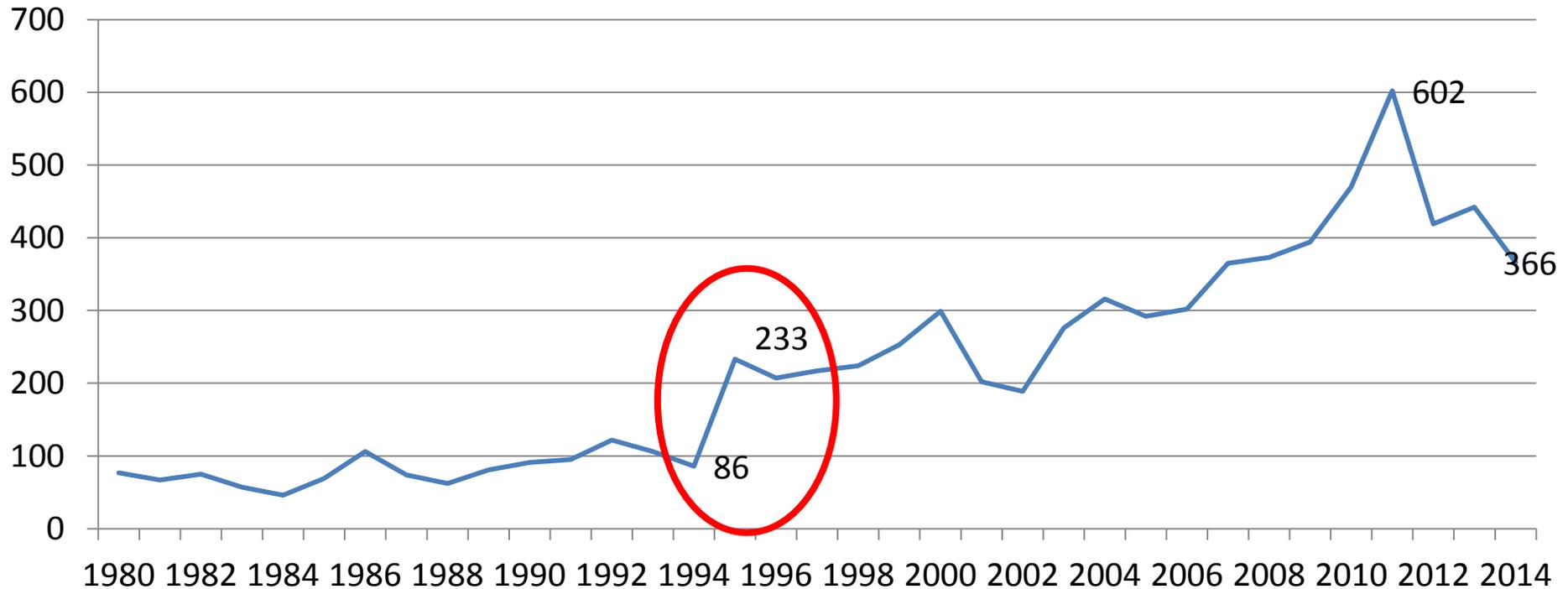
- possible changes: political culture
 - more opposition may trigger more polarization and less consensus
 - more populism – more politicization – less trust in elites
 - parties are likely to sharpen their ideological profile (so an Eurosceptic party may come up)
- possible changes: society
 - increasing debate about benefits and drawbacks of economic growth
 - debate about the relaxation of “Liechtenstein’s special rule” (free movement of persons)
- uncertainty about future development of the EEA, the EU and the cooperation among the EEA EFTA states

Second part: administration of the EEA

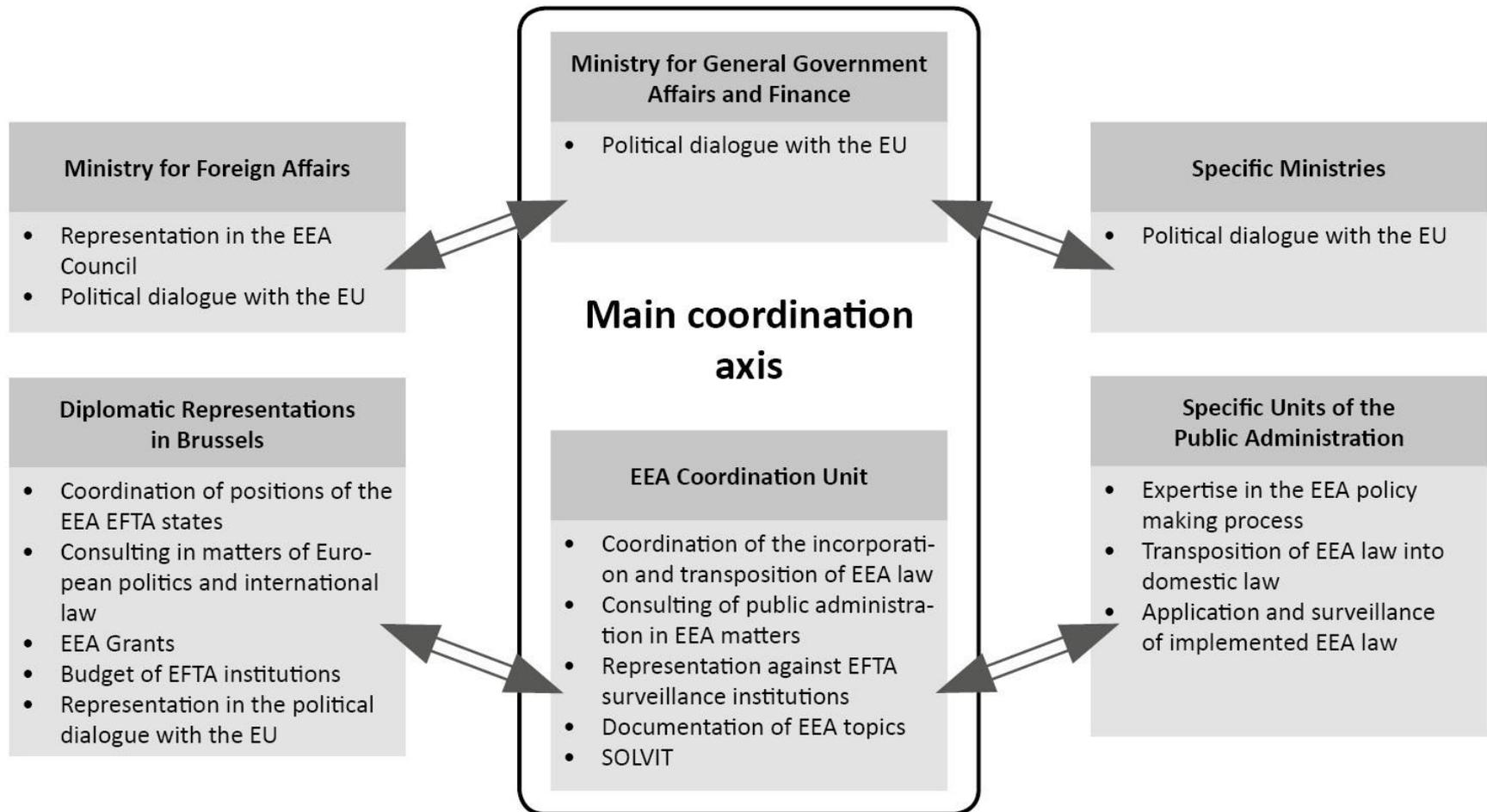


Strong increase of legislative activity after EEA accession

number of yearly published Liechtenstein Law Gazette since 1980



Liechtenstein's key players in the administration of EEA matters



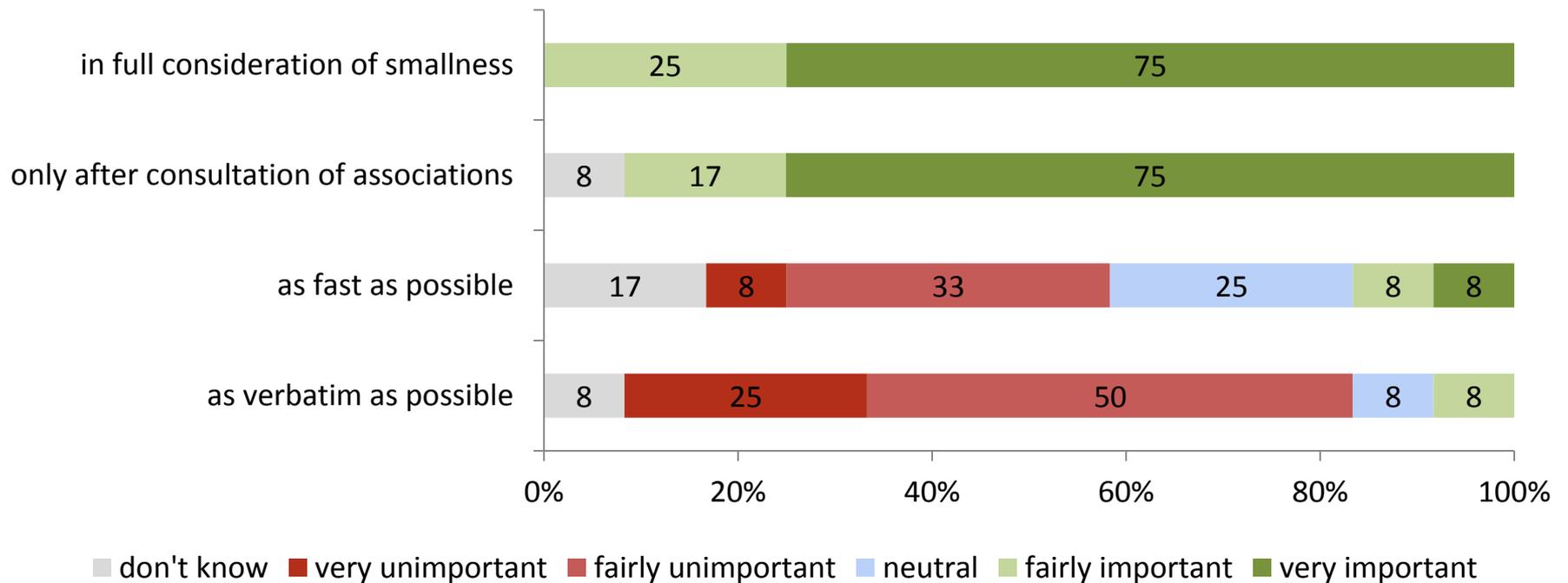
Source: own compilation

Assessment of transposition of EEA law into domestic law



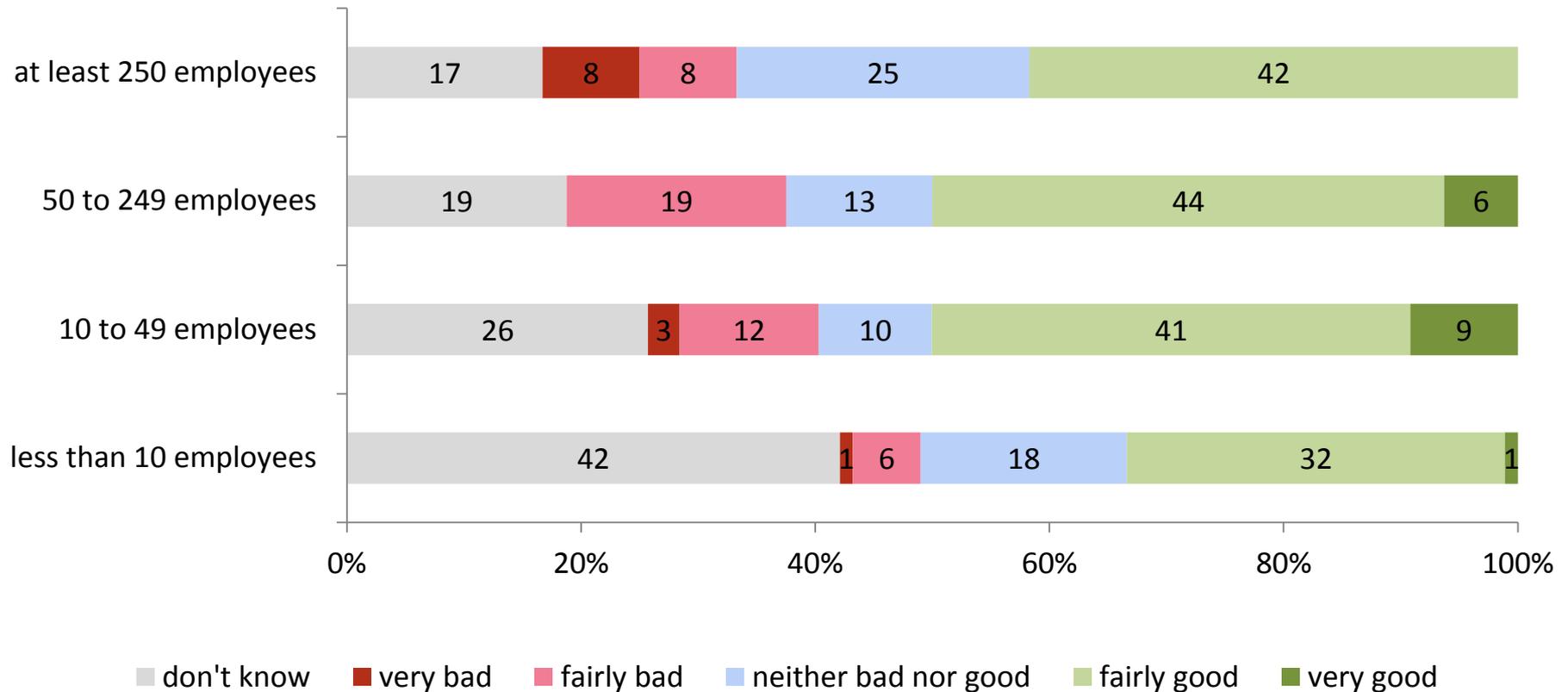
Selective interests regarding transposition of EEA law into domestic law [economy]

Transposition of EEA law into domestic law: 250 and more employees



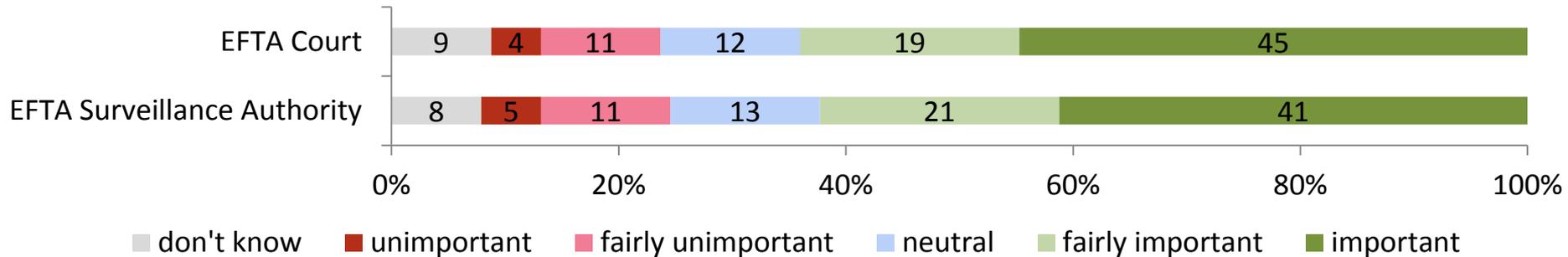
Little criticism of transposition of EEA law [economy]

quality of transposition of EEA law into domestic law

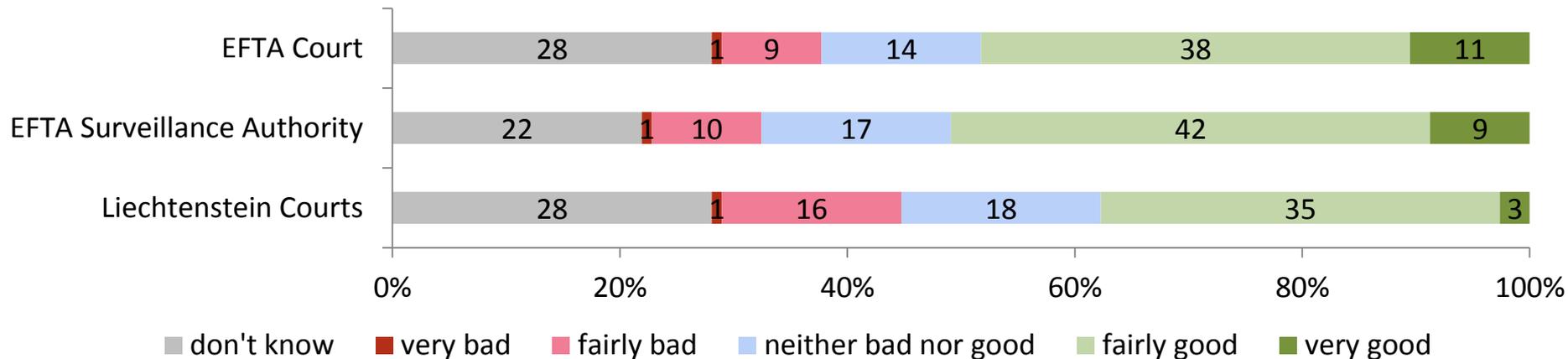


Mostly positive assessment of surveillance of EEA law by EFTA institutions [EEA experts]

relevance of surveillance of EEA law by EFTA institutions

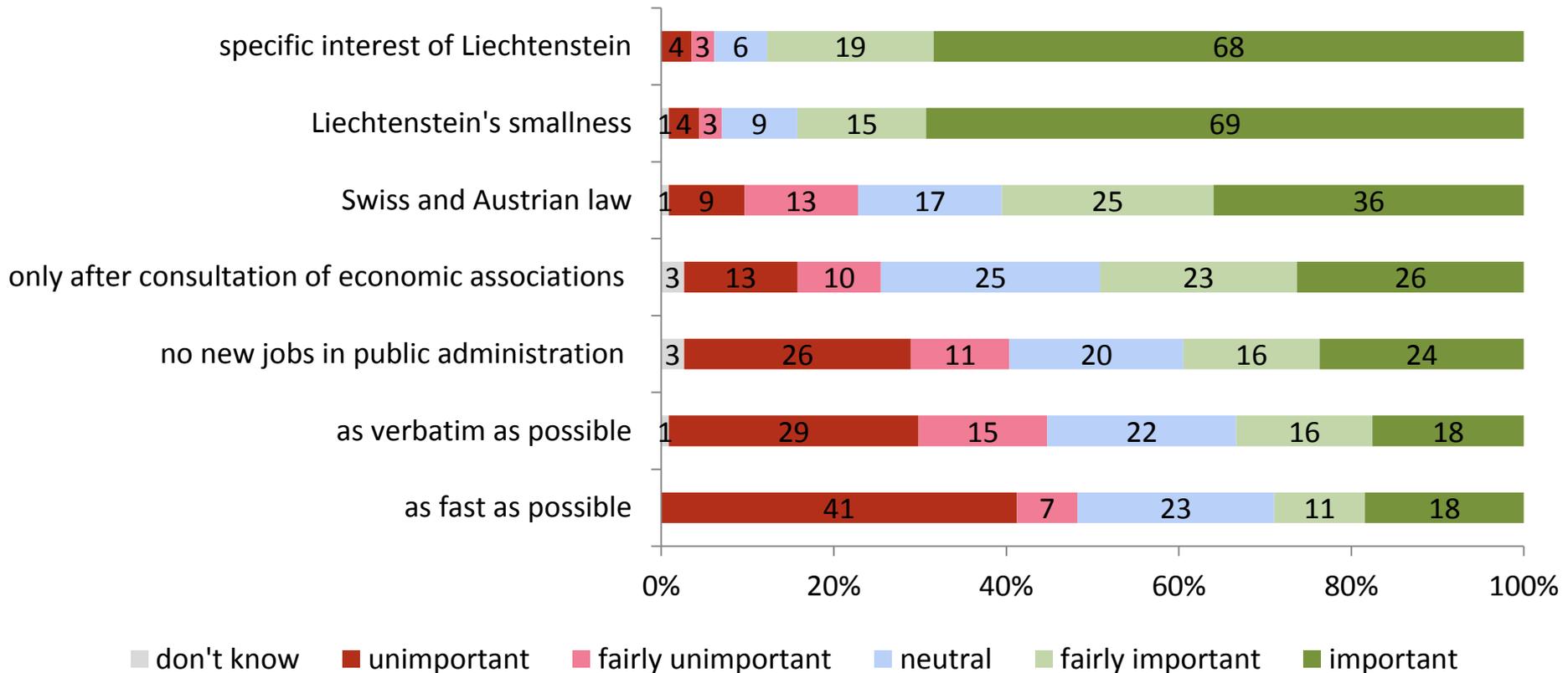


quality of surveillance of EEA law by EFTA institutions



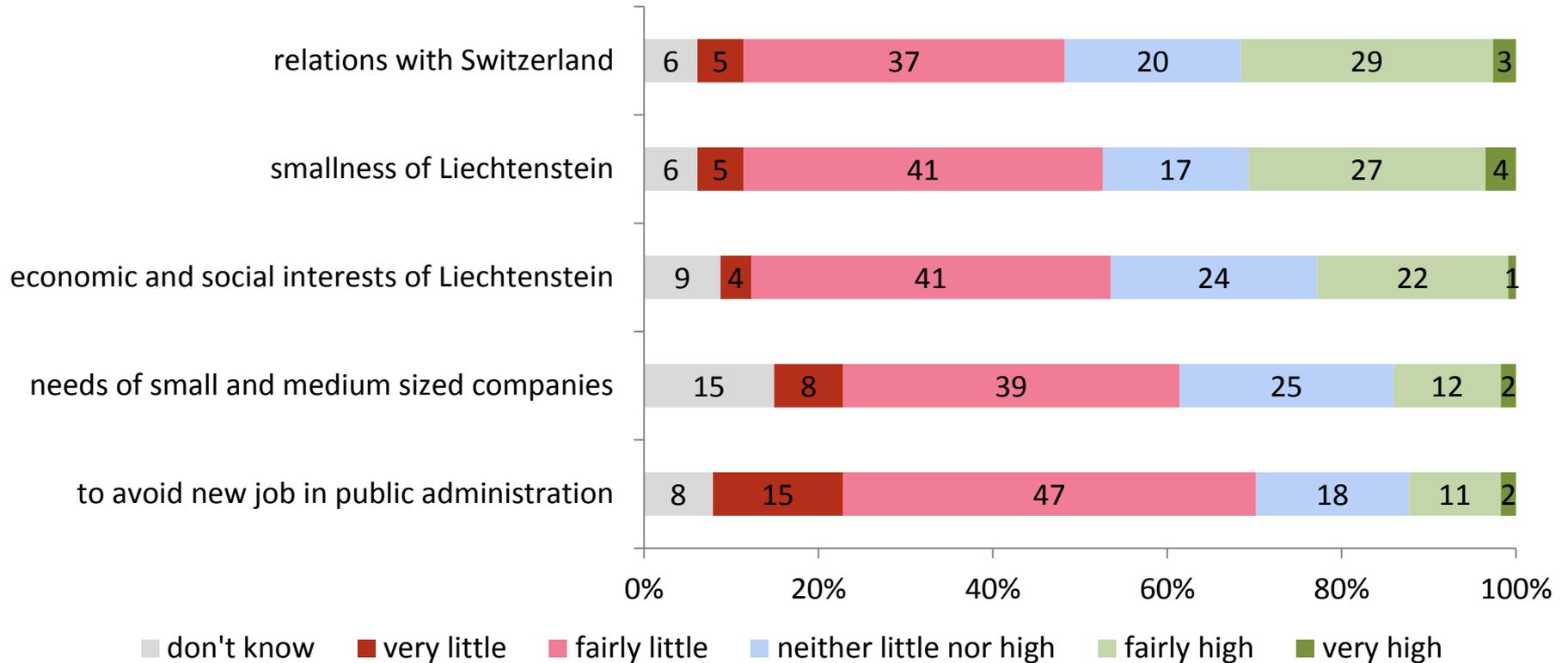
Domestic economic and social interests most important parameter for transposition [EEA experts]

relevance of specific parameter for the transposition of EEA law into domestic law



Little leeway when implementing EEA law into domestic law [EEA experts]

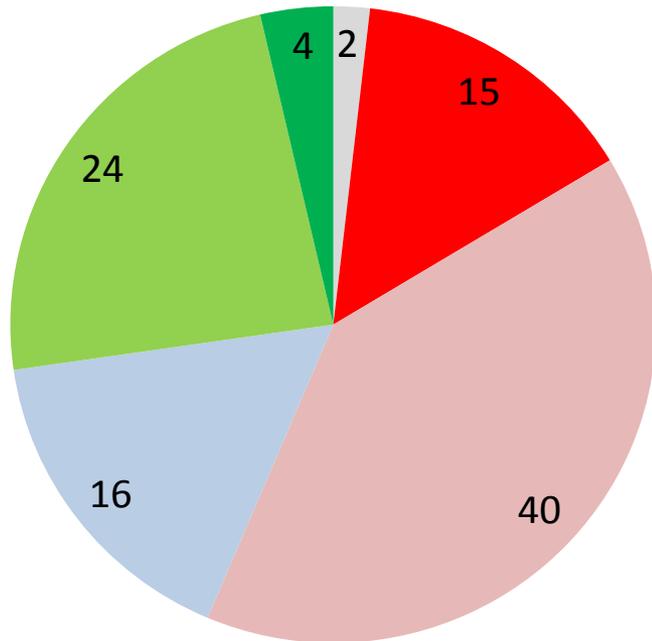
leeway by implementing EEA law into domestic law



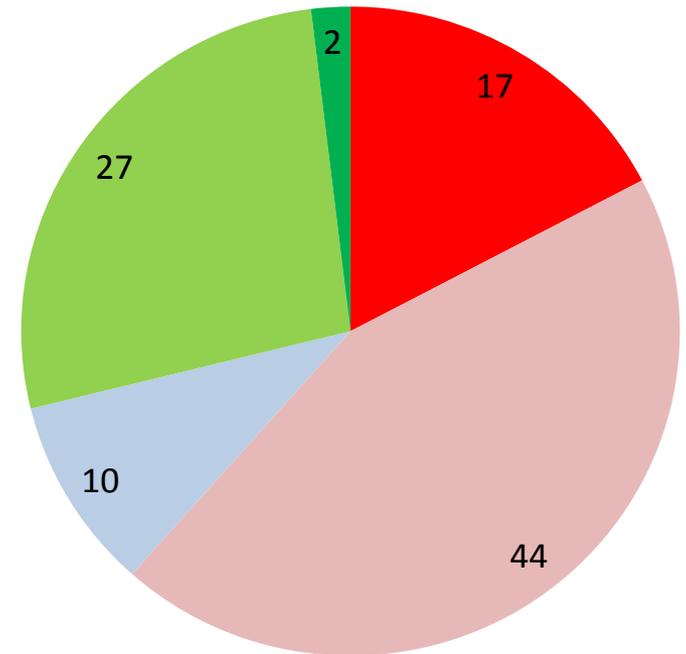
Most expert do not receive concrete instructions.

Do you receive instructions when participating in EU or EFTA committees?

EFTA



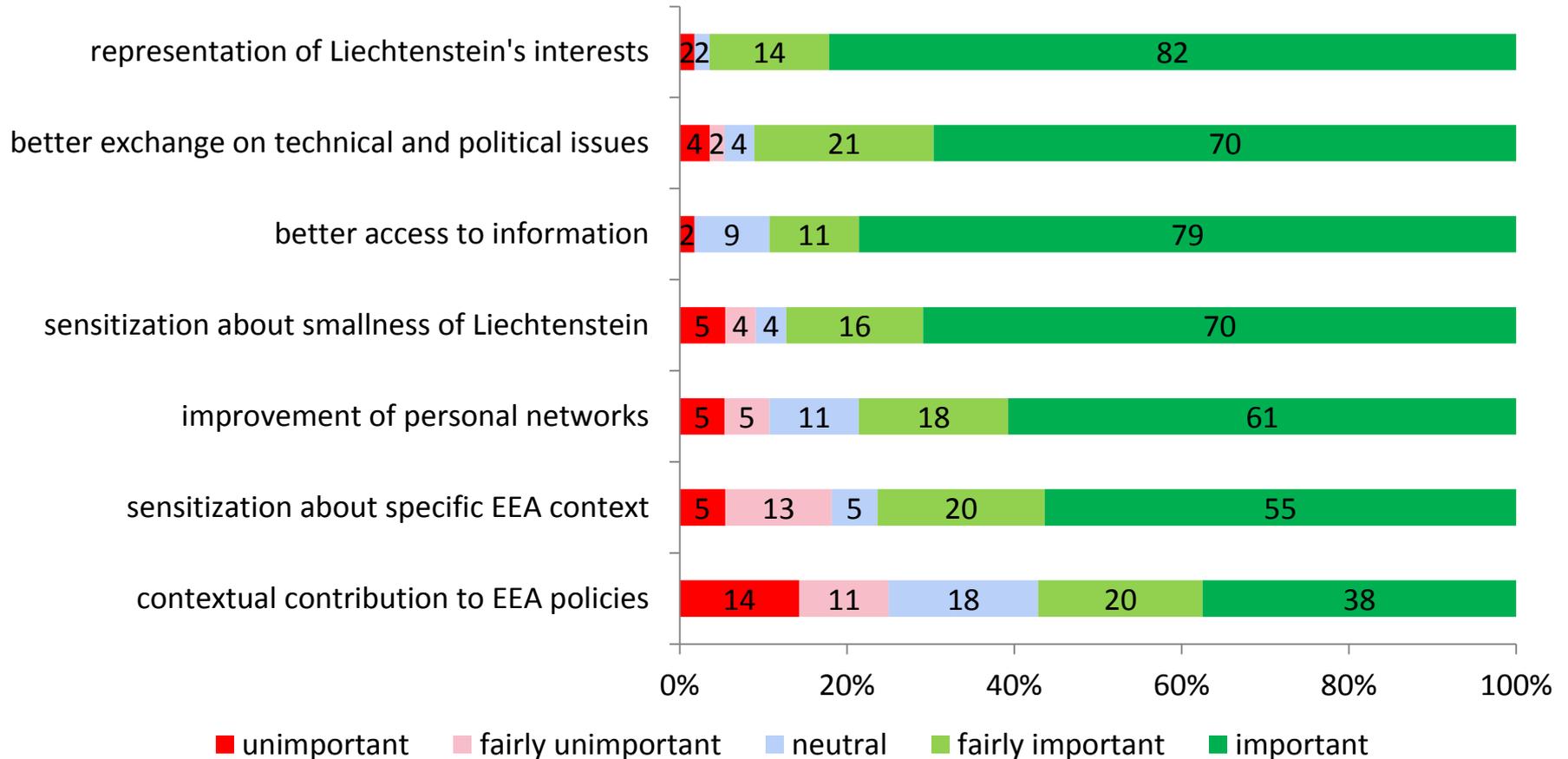
EU



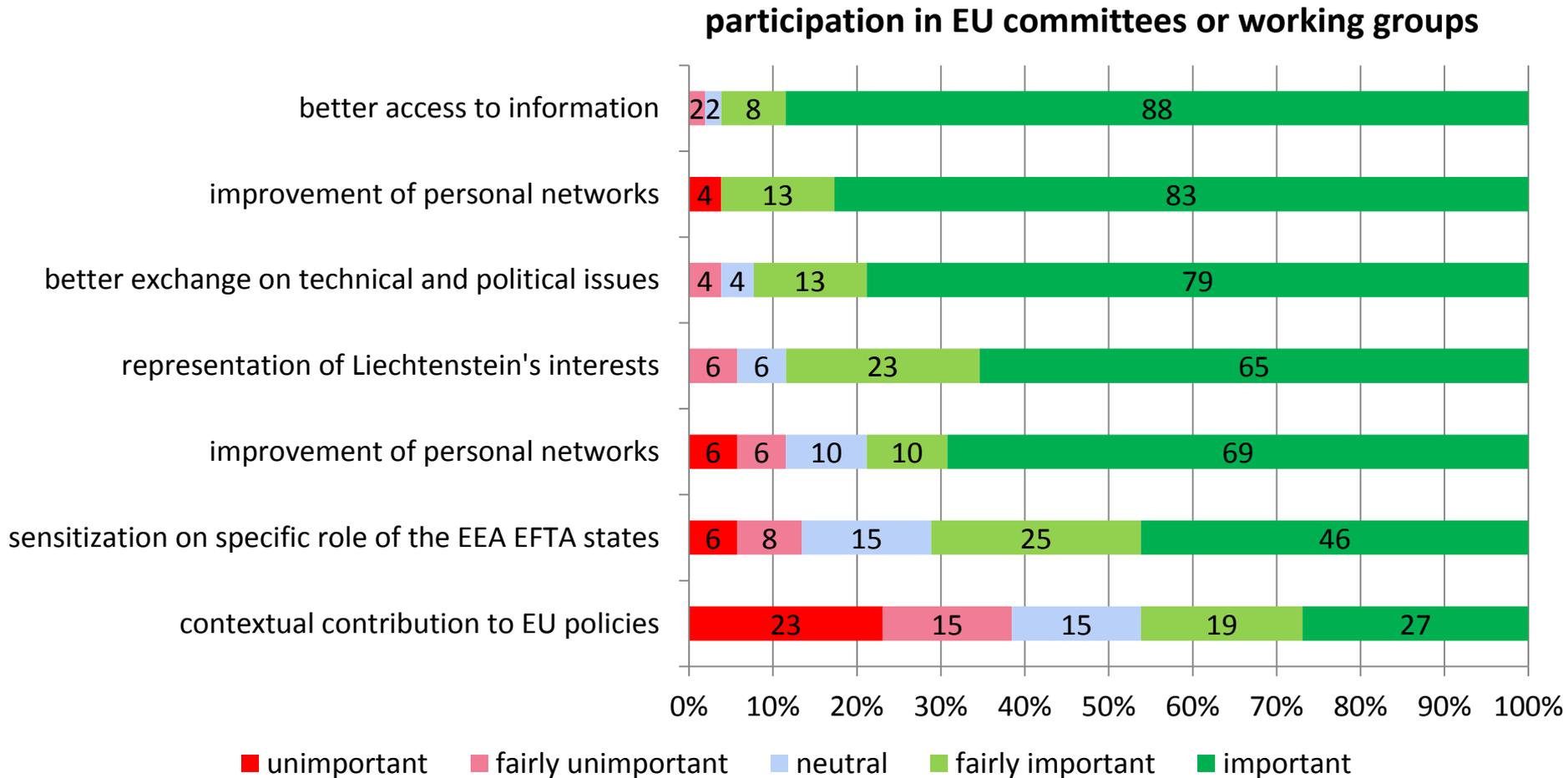
- don't know
- never
- rarely
- sometimes
- often
- always

EFTA committees: representation of interests and access to information most important

participation in EFTA committees or working groups



EU committees: access to information and personal networks most important



Why do states comply with EU rules and why do some states comply better than others?



Compliance with international obligations [1]

- **Enforcement:** states choose to violate international norms as they are not willing to bear the costs of compliance
 - power of obstinacy: States are more sensitive to reputational and material costs imposed by others if they have less political or economic power and are more dependent on future goodwill and cooperation.
 - power of assertiveness: Political and economic weight of a member state is closely related to its assertiveness, that is, its ability to shape legal acts according to its preferences

Source: Börzel et al. (2010), *Obstinate and Inefficient: Why Member States Do Not Comply With European Law*, *Comparative Political Studies* 43:1363.



Compliance with international obligations [2]

- **Management:** Noncompliance is involuntary and occurs if the preconditions that enable states to comply with international norms are absent.
 - resource-centered perspective: Capacity is defined as a state's ability to act, that is, the sum of its legal authority and financial, military, and human resources.
 - procedure-centered perspective: Capacity is defined as a state's ability to mobilize and channel resources into the compliance process.

Source: Börzel et al. (2010)



Compliance with international obligations [3]

- **Legitimacy:** States comply out of a normative belief that a rule or institution ought to be obeyed rather than because it suits their instrumental self-interests.
 - support for the rule of law: The acceptance of a rule and the subsequent inclination to comply with it, results from the diffuse support for lawmaking as a legitimate means to ensuring political order in a community.

Source: Börzel et al. (2010)

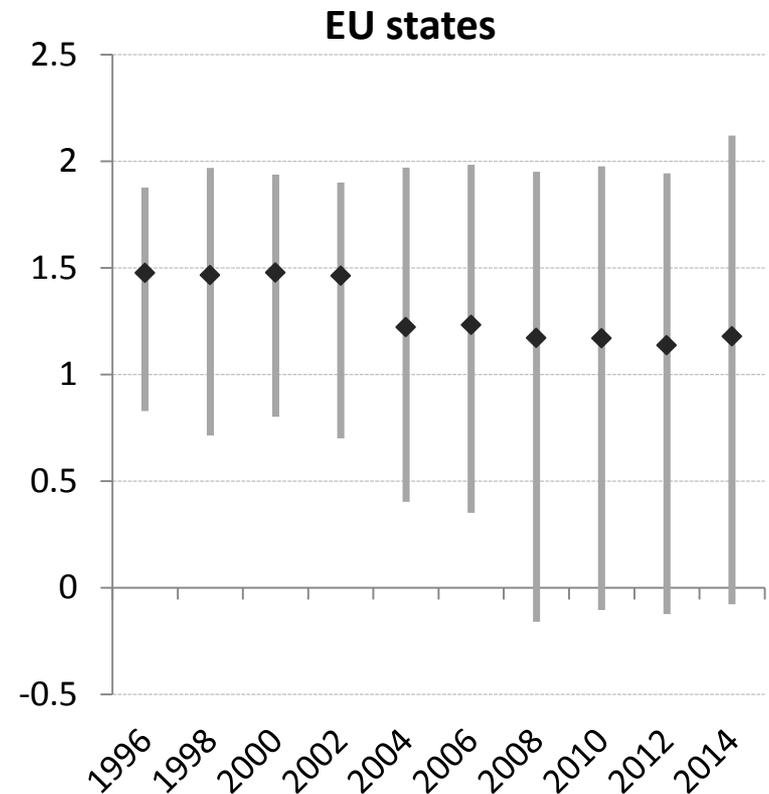
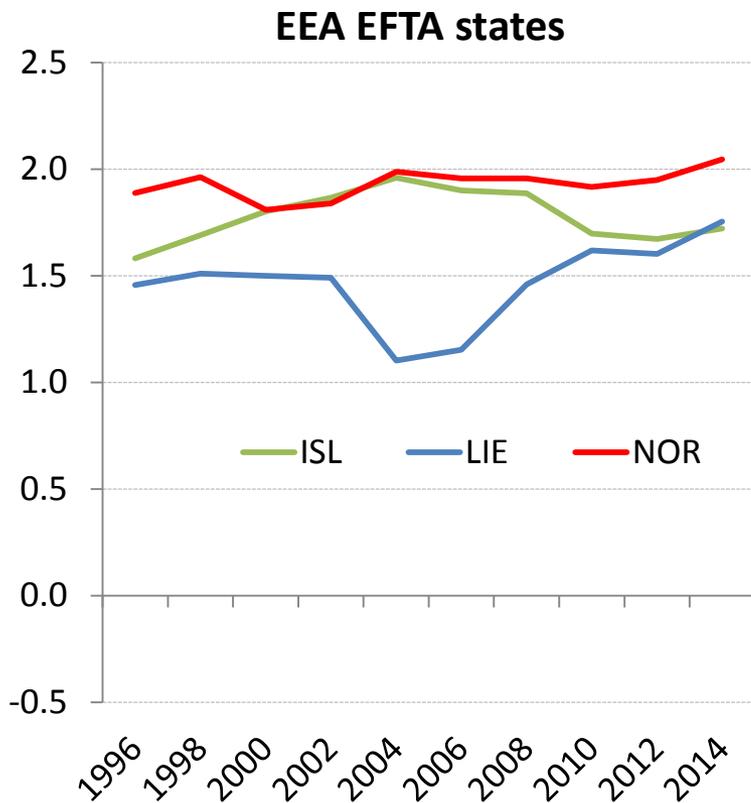


Bargaining power of the EFTA states

Country	Population (2015)	GDP (in million EUR, 2014)	Merchandise trade with the EU-28 as % of total trade (2014)	
			Exports to the EU	Imports from the EU
Iceland	329'100	12'845.5	74.3%	45.3%
Liechtenstein	37'369	x	57.9%	84.9%
Norway	5'165'802	377'538.1	81.7%	64.8%
Switzerland	8'236'573	528'779.8	54.8%	72.7%
EU-28	508'191'116	13'958'351.8	63.3 %	62.9 %

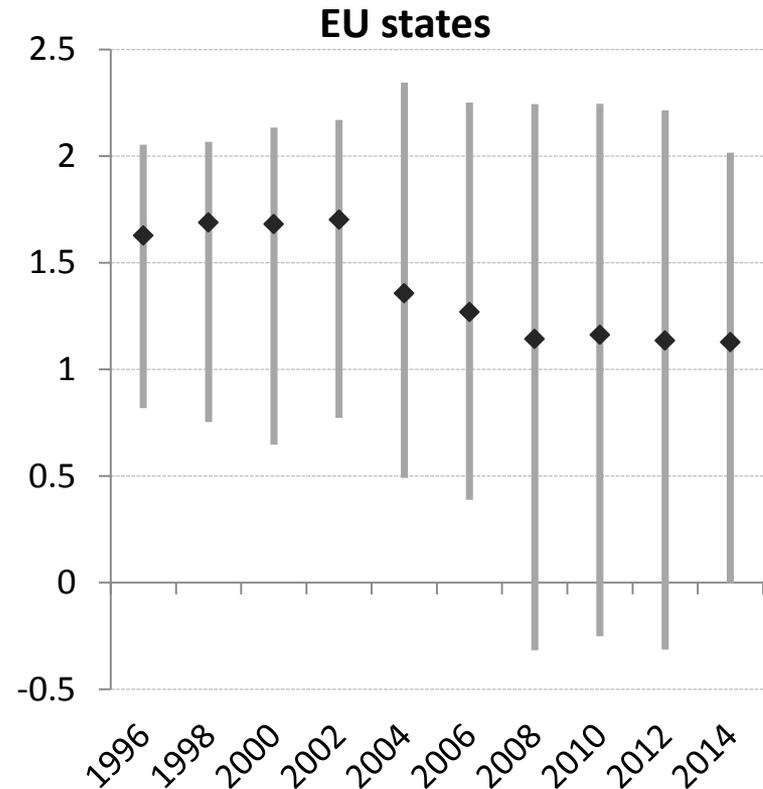
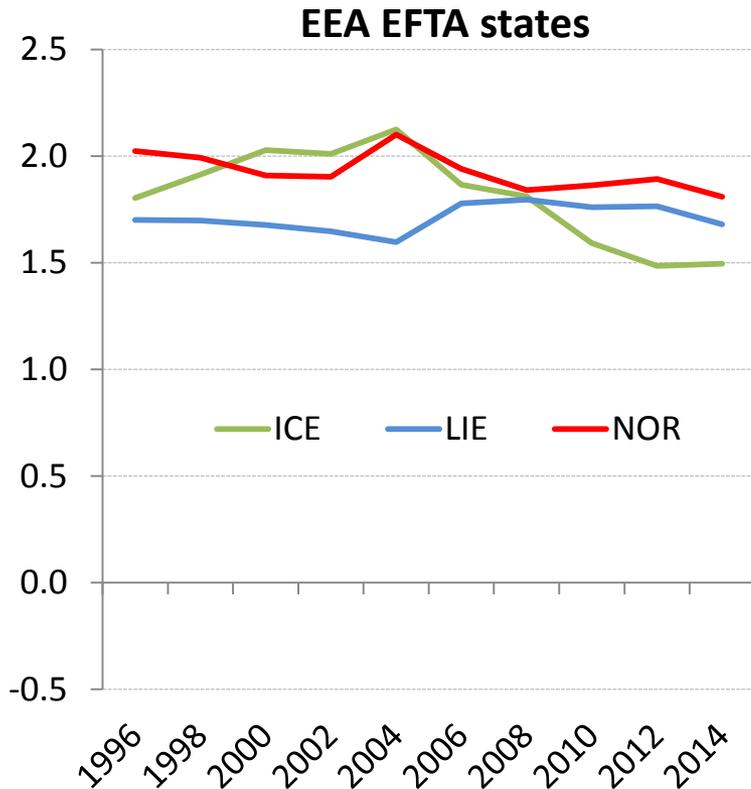
Source: own compilation based on data of EFTA Secretariat and Eurostat

Legitimacy: rule of law (WGI)



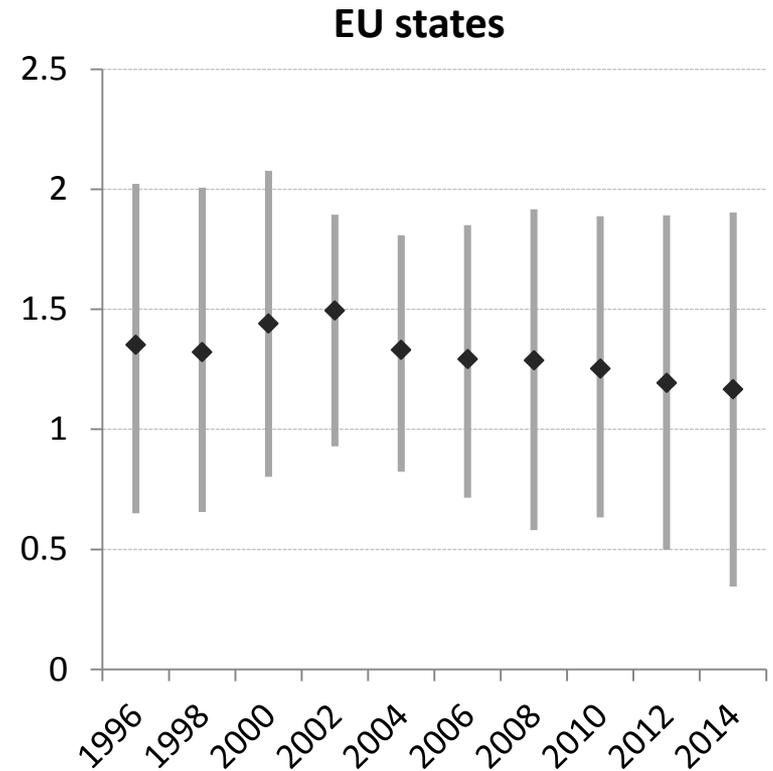
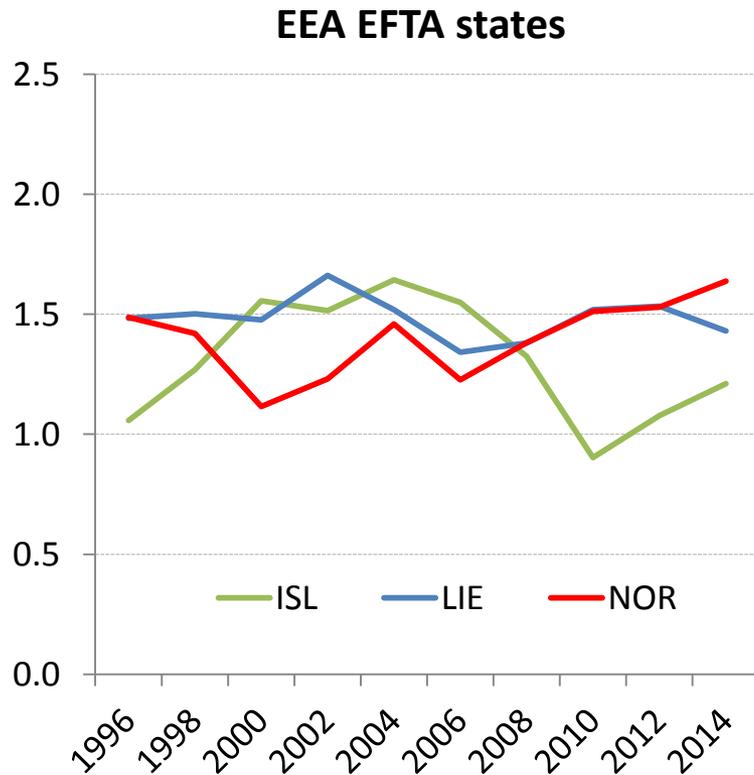
Source: own compilation based on worldwide governance indicators

Capacity: government effectiveness (WGI)



Source: own compilation based on worldwide governance indicators

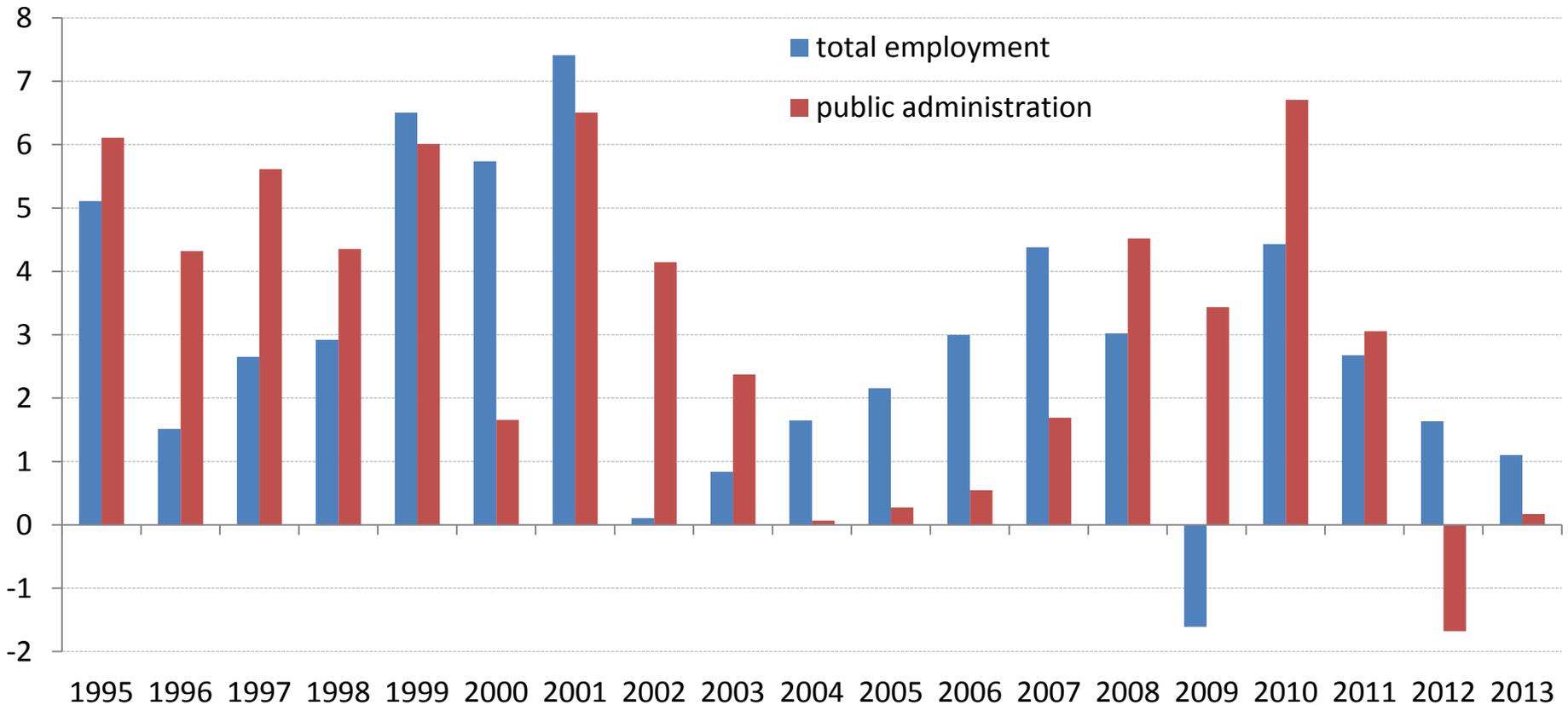
Capacity: regulatory quality (WGI)



Source: own compilation based on worldwide governance indicators

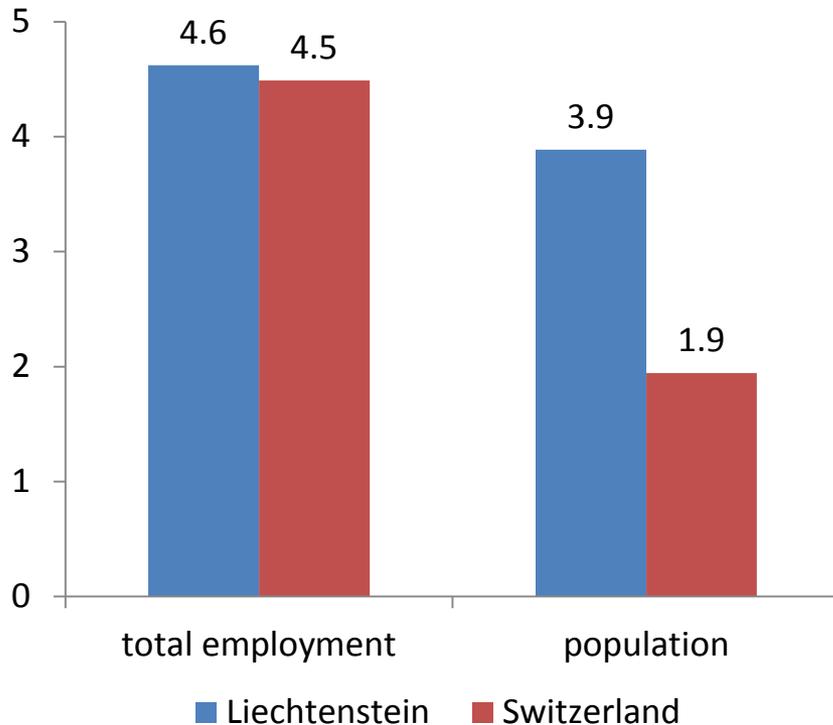
Statistical data about Liechtenstein's public administration [1]

Liechtenstein: annual growth of employment over time [%]

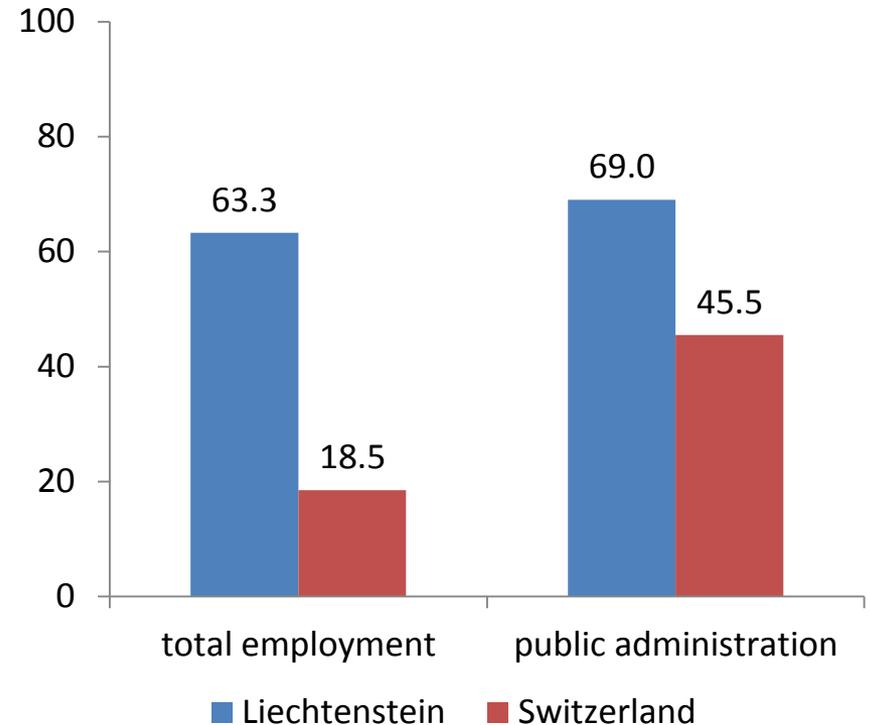


Statistical data about Liechtenstein's public administration [2]

Employment in public administration compared to total employment/population [%]



Increase of total employment and employment in public administration (1995-2013, total, [%])



Key characteristics of Liechtenstein's public administration

- professionalism and high continuity
- technical specialization and high autonomy
- strategic priorities and selective engagement
- clear idea of strengths and weaknesses
- no translation of EU documents required
- outsourcing and delegation
- favourable legal culture (autonomous adaptation to Swiss or Austrian law; monistic approach to international law)
- quick and reliable communication across ministries and administrative units

Source: own compilation based on interviews

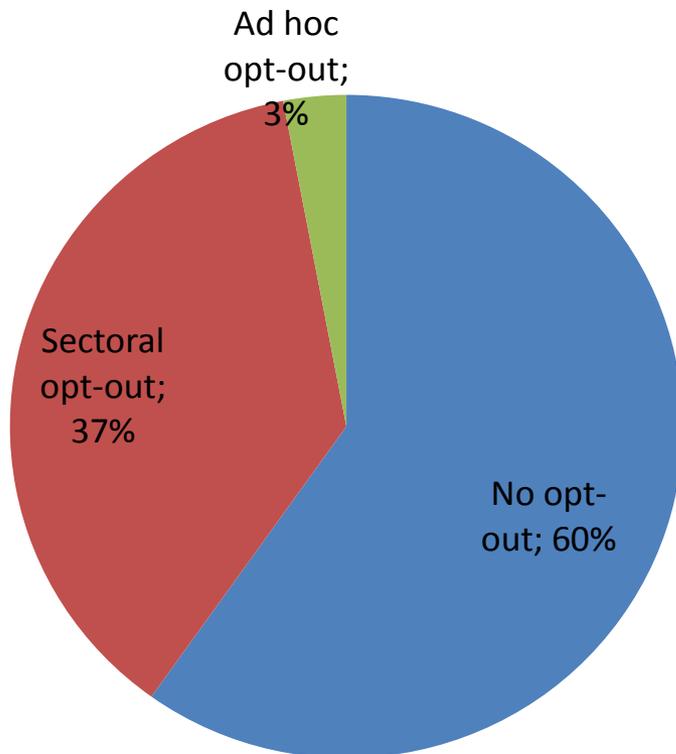


Opt outs and tailor-made arrangements of Liechtenstein



Exemptions in order to decrease the costs of compliance (or to increase the state capacity)

formal validity of EEA *acquis* for Liechtenstein (2014, only formal opt-outs based on a JCD)



Attention: data is out-of-date as I now apply a different coding; however, conclusions will stay the same 😊

- substantial part of the EEA *acquis* is not equally valid for Liechtenstein
- Liechtenstein has far more formal opt-outs than the other EEA states
- in addition to formal opt-outs: tailor-made arrangements such as modular decrees

Various explanations for Liechtenstein's tailor-made arrangements

- **economic factors** such as small market size (e. g. telecommunication)
- **regulatory factors** such as the lack of specific infrastructure (e. g. combustion plants; crude oil) or limited natural resources (e. g. renewable energy)
- **geographical factors** such as small inhabitable area (e. g. property market/ free movement of capital) or lack of regulatory need (e. g. inland waterways)
- **societal factors** such as the vital interest to maintain national identity (e. g. free movement of persons)
- **administrative factors** such as limited resources (e. g. medicinal products) or codes of conducts (e. g. privacy concerns in business statistics)
- **political factors** such as close relations with Switzerland (e. g. waste management; patent union)

Opt-outs challenge confidence in state capacity but also uniformity of EEA law

- EEA perspective: Do derogations initiate a special treatment of Liechtenstein and does such a special treatment threaten the homogeneity of the EEA?
- Domestic perspective: The domestic dimension focuses on the need of derogations, their acceptance, and potential savings.



Trade off between legislative sovereignty and administrative efficiency

- no threat for overall homogeneity of the EEA
 - Liechtenstein is simply too small and unimportant
 - mostly rather technical issues
 - despite opt-outs EU law may still apply – no different regulatory standards
 - narrow institutional corset (e. g. free movement of persons)
- reduction of compliance costs but no gain of legislative sovereignty
 - demand for exemptions mostly not based on material or ideational preferences (no regulatory misfit but limited state capacity)
 - mostly delegation of implementation (and not rejection of implementation)



Summary: How to explain Liechtenstein's compliance record?

- substantial increase of employment in public administration after EEA accession
- efficient administration of EEA matters based on specific strategies but also a favourable legal tradition
- high government autonomy (low politicization)
- far-reaching sectoral opt-outs and tailor-made arrangements
- *lack of political and economic relevance of Liechtenstein – lower intensity of surveillance?*
- *limited number of applicants of EEA law in Liechtenstein – lower intensity of surveillance?*



Research on European integration



Effective external differentiated integration

The European Economic Area (EEA) which establishes a homogenous economic area between the member states of the European Union (EU) and the so-called EEA EFTA states, Iceland, Liechtenstein and Norway, is the most far-reaching agreement that the EU has concluded with non-member states. As a result, the EEA is often referred to as a source of inspiration or a future aspiration for the EU's neighbours. Nonetheless, there is little knowledge about the daily administration of the EEA as well as whether the EEA does indeed fulfil its main goal: homogeneity. Homogeneity is fully realized by consistent selection, timely and complete adoption and correct application of EEA relevant EU legislation by the EEA EFTA states. In this perspective, a low degree of homogeneity in the EEA is equal to a low degree of compliance with the goals and obligations set out in the EEA Agreement. The research project is based on a dataset which literally covers the entire EU secondary legislation. Based on this data I empirically test different sets of country-related and policy-related hypotheses as well as structural factors that account for non-compliance in the EEA. In a nutshell, I argue that the EEA EFTA states provide favourable preconditions for an effective and well-functioning regime of external differentiated integration. Still, the empirical findings show various malfunctions of the EEA in terms of serious violations of the EEA's homogeneity. The vast majority of those violations are likely to be explained by policy-specific variables such as the salience of an EU act, its scope or institutional requirements. However, structural factors are also likely to decrease the degree of homogeneity in the EEA, in particular, the limited access of the EEA EFTA states to the EU policy making as well as the institutional complexity of the EEA's two pillar structure.



Mapping external differentiated integration

Since the Agreement on the European Economic Area (EEA) entered into force in 1994, the so-called EEA EFTA states Iceland, Liechtenstein and Norway have concluded several additional bi- or multilateral agreements with the European Union (EU). In this vein, they have substantially extended their legal relations to the EU, making it even harder to clearly define their actual level of integration. There is no doubt that the EEA EFTA states are the most integrated non-member states. The empirical findings of this thesis, however, show that the integration of the EEA EFTA states may be more fragmentary than expected. Legally speaking, as long as the EEA EFTA states have not incorporated an EU act into the EEA Agreement, it is not equally valid for the EU and the EEA EFTA states even though it is an essential part of the EEA's functional scope. Indeed, the empirical findings show that in over 70 percent of the EU acts that the EEA EFTA states have incorporated into the EEA Agreement since 1994, different compliance dates applied to EU and EEA EFTA states. This brings up a new understanding of external differentiation and its causes. It is mainly relevant for dynamic models of external differentiated integration such as the EEA or the Schengen association of the EFTA states but may also be crucial when discussion other models of differentiated integration such as "Core Europe" or a Europe of "Concentric Circles".



Smallness and European integration

Although Liechtenstein's population is only a fraction of the smallest other EEA member, it has to fulfil the same legal obligations and is equally represented in the institutional setup of the EEA. In this regard, European integration of a very small state like Liechtenstein faces two major difficulties: first, the contracting parties have to respect the sovereignty of every (small-sized) member state even though this may contradict the idea of an adequate (at least of a proportional) democratic representation of their citizens. Second, the very small states themselves have to prove their ability to implement the respective *acquis* in order to fulfil all obligations set out by an integration model. Thus far, the analysis has been limited to the second aspect. In a nutshell, I argue that a very small state may have little human resources and thus limited administrative capacity but can still ensure a highly efficient bureaucracy in order to comply with international obligations. However, the analysis of Liechtenstein's membership in the EEA also shows that Liechtenstein has by far the most opt-outs of all EEA members. Moreover, most of those opt-outs are related to the smallness of Liechtenstein and an incremental part of Liechtenstein's strategy to cope with its international obligations.





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for your attention!**

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